



# 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 14, 2021**, beginning at **4:00 p.m.** due to social distancing guidelines suggested by the CDC in light of the Novel Coronavirus (COVID 19).

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Agenda items were as follows:

### 1. Call Special Meeting to Order/Roll Call

Mayor Higley called the special meeting to order at 4:00 p.m.

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

### 2. Support of Youth Sports

Matters related to agreements regarding youth sports. *Recommended Action: Adopt an ordinance amending the 2021 Budget to provide funds for youth sports programs, and authorize the City Manager to enter into agreements with the West University Little League Association and the West University Softball Association for youth baseball and youth softball programs. **Mayor Bob Higley***

Before discussion, Council allowed comments from the public:

**Eddie Matthews**, 5906 Fordham Street, spoke to say since the announcement of the election results, this Council has held three meetings on this matter and that he personally thinks the new Council should decide this issue, especially if it is believed that this matter was the most important in the recent election. He said while he appreciates this Council's response to the vote, is this all a waste of time.

**Note from Mayor Elect Sample:** Mayor Higley read into record the following comment from Mayor-Elect Susan Sample as she requested:

"We are encouraged by the May 6 special council session called by the Mayor and Council to recognize the importance of municipal funding for youth sports in our community. We support their willingness to help the city come together and move past divisions created during the recent campaigns and election. Like the current Mayor and Council, we feel strongly that West University's sense of shared community is one of our strongest assets, and we want to do all we can to sustain and grow that.

While we are encouraged by the positive tone, we think the best outcome would involve input from the Mayor-Elect and Council-Elect, as well as key stakeholders including Tri-Sports,

West University Softball Assoc., RISE Soccer, and West University Little League. Any lasting solution should include input from the most recently elected officials, as well as those responsible for using the taxpayer's funds. We look forward to coming together with Council Member John Barnes, as your newly elected government. We hope to build on the current Council's effort to achieve an equitable outcome for all involved.

We are honored to have been selected to serve you on West University City Council. Thank you again for your support.”

After the public comments, Mayor Higley asked if any members of the current Council would like to speak.

Councilmember Lankford said she still believes that the new Council should sort out the level of support, the structure and the legalities. She said she is not willing to take on the personal liability for this issue and, although she thinks that youth sports is an important component of the community, the canvassing documents show that only 32.8 percent of the registered voters actually voted in this past election. She said that calculates out to Susan Sample's 51.63 percent as really 16.8 percent of all the registered voters.

Councilmember Lankford said she is not sure she agrees with everyone that this is a resounding vote for this funding support for Tri-Sports little leagues, but rather a vocal minority. She said she sees two issues with the current structure. (1) It is somewhat irresponsible to transfer the money out of the reserves at this time, especially for a contract that Gregg Thompson said in the most recent Village News that the new council could always clean it up and improve the memorandum, so it seems to be cast in stone that they are not going to accept it. She also said money is in the reserves to be able to respond quickly to hurricanes and hurricane season is coming up, so she is not in favor of taking money from the reserves for this funding.

Councilmember Lankford said even though she thinks there is still a good try for putting together a legal contract she still questions the validity and legality of this contract. She said she understands that contracts for services are acceptable and legal with outside entities, but not sure what services are actually being addressed in this contract. She said there are things listed are requirements for information and for personnel and equipment that the leagues already do without having the support. She said this agreement does not address the requirements to play on the fields or that these fields should have priority in their scheduling if, at all possible. Councilmember Lankford said to her it seems like it is the wrong entity that is in the contract and that it is a replacement for the City's Parks and Rec having to schedule and coordinate games, which Tri-Sports does, not the leagues.

Mayor Higley asked Councilmember Lankford if Tri-Sports is going to re-write the contract as has been stated in the local area newspaper, why worry about whether or not there is liability since they are going to rewrite it anyway. Councilmember Lankford said this Council will be the one approving the funding to go with the contract and so that is where she sees the liability.

City Attorney Bounds said he does not think anyone would have personal liability for making funds available for a future contract.

When asked by Mayor Higley if the City Attorney's answer brings her any closer to a resolution, Councilmember Lankford responded “no” because she does not think the contract is legal as it is, because she does not think it is a contract for services, but rather a gift for things that are already being done.

City Attorney Bounds said as drafted it is a legal contract for services but, could always be improved.

Mayor Higley said what he believes what Councilmember Lankford is talking about, which she confirmed that she is, is quid pro quo and if the quid has already been paid the quo is unnecessary.

City Attorney Bounds said in his opinion, if the City wants to secure the services of youth programs in the future, it would be appropriate for them to provide funding for those programs, which is what this agreement essentially does. He said whether it is a good deal for the City is ultimately determined by City Council.

In response to Councilmember Lankford's question as to what City Attorney Bounds sees those services being, Mr. Bounds stated as drafted, the Softball Association will provide a softball program that the local youth can participate in and the Little League Association will provide a little league that the local youth can participate in. Councilmember Lankford pointed out that they are doing those activities whether the City provides them funds or not. Councilmember Bounds said they may already be doing those services, but to ensure that those services continue the City can contract to expend funds for those programs.

Councilmember Barnes confirmed with City Attorney Bounds that the answer is really that they are currently voluntarily providing those services and the contract would make them mandatory. City Attorney Bounds said that is the quid pro quo – in order to get the money from the City, they have to produce the program and have to generate a sufficient amount of revenue to support that program.

Mayor Higley said it is known that Tri-Sports has the ability to solve any and all of these problems by simply raising their fees to meet the market needs, so why does City taxpayers have to step in to supplement activity by a private business entity, especially those taxpayers that cannot or do not have children or who have long since passed any opportunity to participate in this “public enterprise.”

Councilmember Barnes said there is a legal question and policy question when approaching something like this. He said the policy question as to whether or not the funding would occur was decided by the voters and taken out of the hands of Council. He said the question left is whether it can be done in a legally defensible manner and in a framework that makes the most sense and is the most beneficial as it can be for the broadest spectrum of taxpayers. He said this Council has spent the last two years becoming familiar with these issues, including the legal ones and the new Council will be coming in cold. He said it is far more efficient to at least create a framework regardless of it is initially accepted. He said it is worth at least making an effort to create the framework so that Council's time is not spent learning and reinventing the wheel.

Mayor Higley said the vote was on candidates to lead, but the Tri-Sports issue was a central issue. He said the amount of \$125,000 was “cooked up” by Tri-Sports. He said it (the amount) starts with a long history. He said people that voted were voting for leadership, which is why this Council picked up this “hot potato” during this term so they can look at it and examine it. He said Tri-Sports is based on a policy issue and this Council is still stuck as to why the City should be subsidizing 137 zip codes. He said why should the City subsidize them locally and over 137 zip codes.

Mayor Pro Tem Trautner said he thought the City Attorney said it was legal and that Council arrived at \$125,000 because that is clearly what Tri-Sports wanted and what the voters wanted and for those people that didn't vote, it was somewhat of a passive vote in favor of youth sports and he thinks people just want this to be done. He said he thinks this is a framework as it provides for accountability and transparency that the voters demand for this kind of taxpayer cash.

Mayor Higley said that is the only point that gives him any cause for hope – that there will be transparency for the first time in 30 years. He said without that he has no confidence in this.

Councilmember Sobash said he would not repeat a lot of what has been said, but would add one additional thing that stands before them. He said he thinks there is an opportunity here to say to those folks on both sides of the issue that it is time to move forward. He said he believes this Council can show leadership to those that supported both sides of the issue and say this is a path forward and an effort in transparency. He said it is an act of leadership and supports this.

Councilmember Barnes confirmed with City Attorney Bounds that he would recommend that the transparency and accountability requirements that are in the contracts drafted regardless of whether Council was doing the deal with the leagues, Tri-Sports or whomever in exchange for this type of money from the taxpayers. City Attorney Bounds said he does not think the provisions are unusual, especially when dealing with a non-profit.

Councilmember Barnes asked City Attorney Bounds beyond being standard provisions are these provisions what is necessary to meet the fiscal control prong of the three-factor test discussed on a number of occasions. City Attorney Bounds said the AG has specified three general conditions of funding a project like this – public purpose, financial controls and a reasonable relationship between the money being expended and the services being offered.

Before the motion, Mayor Pro Tem Trautner commented regarding the contract and suggested revisions. Mayor Pro Tem Trautner suggested the following revisions:

- Deleting the “Whereas” clause in Item C relating to promotion of civic involvement in decision process for recreational opportunities. He said he does not think that this is what this contract is designed to do.
- After “including trash pick-up” in Item 4E he would add “and recycling” as requested by the City.

Councilmember Barnes said there has been some feedback from the community that the contract does not include RISE Soccer, so would there be any difficulty reframing the contract structure to include RISE Soccer prorating the payments amongst the \$125,000 based on relative participation of West U residents. City Attorney Bounds said the form of the agreement would be basically the same but instead of providing West U Little League and West U Softball services it would provide for Soccer services.

After discussion to add RISE Soccer to the contract, Mayor Higley stated that he does not want to get down into the details of running Tri-Sports and its business and he does not want Tri-Sports running the affairs and business of West U. He said they should collect their own money through their own registration fees from 137 different zip codes, including West U, spend as they see fit, and allow the City to continue to devise ways to support them through in-kind contributions. He said he wants totally out of Tri-Sports business and he wants them out of West U’s business and said the City should not be funding this private enterprise.

Mayor Pro Tem Trautner moved to approve the form agreement with West University Softball Association and West University Place Little League and a separate agreement in the same form with RISE Soccer in the amounts of \$55,000, \$55,000 and \$15,000 (respectively) with the revisions to the form by deleting Item C in the “Whereas” clause and adding “recycling” with the trash pick-up. Councilmember Barnes seconded the motion. **MOTION PASSED**

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

Councilmember Barnes moved to approve adopting the ordinance amending the budget. Mayor Pro Tem Trautner. **MOTION PASSED.**

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

Councilmember Barnes moved to approve authorizing the city manager to enter into an agreement with West University Little League Association, West U Softball Association and RISE Soccer for youth baseball, youth softball, and youth soccer. Mayor Pro Tem Trautner seconded. **MOTION PASSED.**

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

### 3. Adjourn

At approximately 4:35 p.m., Mayor Higley 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