

STATE OF TEXAS
COUNTY OF FALLS
CITY OF MARLIN

On this the 10th day of December, 2019, the City Council of the City of Marlin, Texas convened in a REGULAR SCHEDULED MEETING at 6:00pm, the same being open to the public and having been posted as prescribed in Local Government Code, Section 551.041 with the following members present to wit:

ELECTED OFFICIALS

Mayor Carolyn Lofton
Mayor Pro-Tem Scottie Henderson
Nettie Moore (@ 6:05)
Rhonda Milton
Max Martinez (Absent)
Douglas Porter
Terence McDavid

STAFF

Cedric Davis, City Manager
Maryann Waddle, City Secretary
Deandrea Petty, City Attorney

1. Call to Order by Mayor Lofton @ 6:00pm.
2. Roll Call by Maryann Waddle.
3. Certify Posting in accordance with State Law by Maryann Waddle.
4. Pledge by Mayor Lofton and Invocation by Councilmember Porter.
5. Citizens Input.

None.

6. Discussion and or take action meeting with auditor

Mayor Lofton let Mr. Allman know that he was requested to attend because there were adjustments made to the prior year audit and some of the council members had questions and they wanted to try to get some of those questions answered. She wanted everyone on the same page and asked that he give a briefing of what was found.

Don Allman addressed the council and stated that in the general account, the biggest problem there was prior capital assets were not recorded at all, had about \$1,743,000 capital assets to the general fund and a net of \$464,000 depreciation, biggest reason was audit adjusted the net. The biggest discrepancy was that the prior year adjustments were not entered. In current year asset improvements \$16,000 and \$362,000 in improvements in streets. 1.3 million in previous capital assets are what he had to enter into the general fund. Another big adjustment was the fund balance \$750,000 do to that. Another was out part of the sales tax receivables were not recorded, that amount was about \$150,000. Debt services were \$448,000, interest had to be taken out which was another big adjustment. The deprecation for the year was \$464,000, and the city made a \$310,000 bond payment. These were the big adjustments in the general fund. In the enterprise fund there were \$987,000 in construction in progress that needed to be recorded, as well as \$26,500 fixed

assets such as tools and equipment, in waterworks \$165,000, and in waste water \$157,000 and \$63,000 on lift stations. This was about \$1.5 million in capital assets in the water and sewer that was not recorded. The depreciation on that was about 842. Collectible accounts were \$445,000 from water and sewer. The new loan was not recorded which was \$984,000. Councilmember Milton wanted to know what he meant by not recorded, and if they were just months missing. Allman stated that the city had none of the infrastructure or capital assets recorded. They were not missing. Milton asked what does that mean for the city. Don stated that it makes the city look like it is in a much worse state financially. Like with the 1.5 million in capital assets added it could look like you're in the negative but you actually have 3 million in assets not including services. Milton asked with the adjustments made how does the city look now. Don stated much better with 1.5 million in assets in the general and enterprise funds. If you go to get bonds, they want to see positive net worth's for the city and out of the 3million, the thing that I mentioned depreciation in the enterprise fund is \$843,000 so you about 2 million and in the general fund it is about \$500,000 so you should have over a million in there. So that is added value to the city that has been added over the years. And if you go to get a new bond it is not going to show all the progress in infrastructure that yall have built over the years. Milton asked, what were the years that this covered. Don said that they covered to 9/30/18 and prior years. Milton asked to date they have now been adjusted. Don said up to 9/30/18. There will be 9/30/19 adjustments to make but there should not be as many to make. IF you buy \$50,000 in equipment it will show on your expense, but you want to make sure you capitalize on it. This would be a typical adjustment. Porter asked how long this was going on, and evidently the last auditor did not find this. Don said there was no capital on the books at all. Porter stated that so this has been going on a long time even when we had the other auditor. Don stated that your assets were reflected on the audit, but not internally. Don stated that when asked, Vikki stated that she did not do them because the old auditors would not come and supervise the process but we did to make sure it was done correctly. Porter stated that it is his understanding that adjustments are normally done by the auditor. Don said that that would be a technical violation of independence, he can't come in and say I am going to make your adjustments, yall have to ask us to. Porter asked if the figures come for you. Don said they do and you have to approve and accept that you want those adjustments. About half the cities we handle want us to make the adjustments and half do not because it could throw their budget number out of line. It is more of an accounting vs. budget deal. Porter asked if there was any money found missing. Don stated that this is a financial audit not a forensic audit. Porter stated that if there was a mass amount of money missing you should have seen that right. Don said that if there was anything fraudulent, we would have seen

that. Mayor Lofton stated that Allman had alerted us as to signs, like the massive amount of voided checks that could have alluded to that and because you were not sure, you brought those concerns to our attention and said we might need a forensic audit. Don said I concur yes, especially since some of the attitudes of people were worse in 19. Porter asked if there was any heart burn with the pool cash account. Don said no a lot of cities use it, Like Hearne and Cameron. Porter asked if Don was familiar with Incode. Don said yes that Incode has debits and credits for every transaction. The city's benefit is that we use one system for everything so if a water payment is taken it puts it in to the financial side and billing system at the sametime. Milton wanted to know the irregularities that he saw. Don said that the biggest discrepancy was in internal books since the prior adjustments were no made. In operations checks were being made twice (double paying bills) but this is a control issue and the amounts were not big amount. Control procedures need to be strengthened there. There were also a number of voided checks that can sometimes lead to fraud. Mayor Lofton stated that there was also no separate account for the bond payments, which was to come from water sales. Don said that pool cash is fine, but the auditor has to separate the accounts, there are cities who have separate accounts, and I recommend separate accounts. This shows that the money is ear marked to make loan payments. In an audit, I have to show that the payment is set aside if not then it would not be in compliance. You don't have to have a separate debit service account, but I do recommend it. Milton asked if as of to date are we in compliance. Cedric Davis stated that accounts are being separated and the Forensic auditor has been here and is doing a blue print and possibly by January he will be able to tell us the past is anything, if anything was missing and how we should structure going forward. Milton asked if the money was set aside for our debit. Davis said yes, it is in a separate account. Don said that he would start the audit after the forensic work was done.

No Action

7. Discuss and or take action a City operated Charter School.

Mayor Lofton let the council know that she had meet with TEA, Senator Birdwell and State Representative Kyle Kacel on Wednesday. Since there were a lot of concerns by the teachers and citizens are no feeling comfortable with the current state of the school, the question was asked, what can be done, he (the commissioner) stated that there are other things happening at the school being able to teach the children phonics and getting some reading programs in place this will help the children's learning. When asked about a plan for the 2021 school year, there was none was the answer. The statement was made that since Marlin has failed for multiple years now it should have already been closed. Marlin

needs a school it is fundamental to the town. In March a decision will be made on the fate of the school. We asked what can be done, the commissioner recommended a charter. A charter school's feasibility was discussed, and the state was glad to talk about ways Marlin could prepare to open a charter system, other charters could help this charter get started. Cedric Davis stated that, no action plan for 2021 there is an issue, instead of waiting on a decision of the closure, the city might want to explore options as to a charter school. Consultants can do the charter application and it would cost around \$6,000-\$10,000. We spoke with Dr. Boston and found out there is only one Municipal Charter School in the state, he will send information to us and is willing to help. Mayor Lofton stated that this is a backup plan for if the school does close, no one wants to see the school close.

Councilmember Milton wanted to know, what exactly is a municipal charter school. Davis stated that there is only one, it came about because Stafford school district wanted to separate from Fort Bend ISD and the ISD sued the parents because they wanted to annex from the school district. It went all the way to the Supreme Court and the Court ruled in favor of the parents. They created two boards. They appointed a school board and the Superintendent reports to both a school board and the city council, since it is funded by both municipal funds and money from TEA. Mayor Lofton stated that after the approval of the municipal charter there was a cap set. So, if we wanted a city charter we would have to go back to the courts, but we can have other charter schools come in and run the school. Councilmember McDavid asked how it would be ran, by school board or council. Mayor Lofton stated that there are some that are ran by a board and report to a council.

Councilmember Milton asked if it would be funded by municipal funds. Mayor Pro-Tem Henderson said that the TEA still provides money per student. Mayor Lofton asked for any Educators in attendance would like to speak. Cynthia Dairy, an educator asked about the cap. Mayor Lofton said that the municipal charter stated earlier is the only of its kind, when they went to court, they asked for a cap, so if we want a municipal charter we will have to go back to the courts. Davis stated that we would have to have a parent's petition and we would have to get the blue print of the municipal school to take back to the court to get approved. Dairy stated that the learning process needs to be changed. Davis we could start from scratch and do a blue print of the curriculum will have to be designed. A charter school does not have to use the TEA curriculum. Dairy stated that she was concerned that most students have no guidance, no education backing, and they don't know what to do, they need to get back to the basics. Kids working in the community lack education, and they are just passed through the grades. Anyone that controls the future of the kids need to understand circumstances in the area. She also wondered about the election or the appointment of board members. Davis stated that there is an application process and there

are to be elections, the board according to the BBA, board members cannot be appointed. Mayor Pro- Henderson stated that from the meeting conversation he got that the school is defiantly headed for closure. The commissioner was suggesting ways to get Marlin ready for this, with that said the city needs to be ready and have something in place and not wait until it happens. Mayor Lofton stated that she has three in the school system here and so she is concerned not only as a citizen and leader but also as a parent. Agena Lynn, she works at the high school, wanted to know what happens to the current administrator, teachers, and other current staff. Do the current staff have to reapply or do they just stay. Mayor Lofton stated that there will have to be a new hiring process, the teachers are going to be needed. I really hope to save jobs and keep the school running. Ms. Lynn expressed concern of the TEA's handling of the current staff and the lack of support. Mayor Lofton spoke with the commissioner about these concerns and he stated that all three principles told him that everything was fine. Mayor Pro-Tem Henderson said that the Congressman stated that he felt the school would be in better hands of the locals, and he would support if any moves were to be made. Debra McDavid wanted to know if the entire ISD was up for closure or just the elementary. Mayor Lofton said that no specific school was closing, that he would have his decision in March. Debra stated that the high school has passed the test the last several years, our problem is the elementary, it has failed the last 15 years. Can we look at charting just the elementary? Mayor Pro-Tem Henderson stated that he had suggested that to the commissioner and he stated no charter the whole school. Mayor Lofton said that his decision will be on to close the whole ISD. Pamela Thompson, principal At Marlin High School, stated that the campus is doing fine. They have limited staff and a six-year gap to fill. Her teachers are having to fill this gap, she was never asked how they were doing. She was told that all her campus needed to do was to bring their D to a C, if she does not like that they are being told one thing and being treated another way. Mayor Lofton stated that a charter school does give flexibility on how you teach the students. Milton stated that she now understands about the consultant and wants to know what is needed to be done now. Davis said that we try to hire a consultant and get a plan in place. Mayor Lofton said that if we don't need the charter then at least we were prepared. Davis stated that this item is so that he can bring at least three consultants back to the council to get this process started. Councilmember Moore wanted to commend the teacher; she knows it is hard to try to keep going without everything they need. Moore asked the time line. Davis said that we need to have the application in by the end of January. He can get an RFP out for an education consultant tomorrow. He also stated that we could hold a meeting to get information on all of this out to the residents.

Councilmember Milton wanted to know that this motion is to support the Marlin ISD. Milton made motion select three candidates for consultants for a City operated Charter school.

Mayor Pro-Tem Henderson seconded this motion and the motion carried as follows:

AYES: Councilmember Milton, Councilmember Moore, Mayor Pro-Tem Henderson, Councilmember McDavid, Councilmember Porter, Mayor Lofton.

NAYS: None.

Absent: Councilmember Martinez

8. Discussion and or take action hunting at the lake agreement.

Mayor Lofton asked if any of the council members had any questions on this item.

Councilmember McDavid asked if the gates are moved closer to the dam, then how do we keep people off the dam with their atvs. Davis stated the only gates being moved will be the access gates and that the dam will stay closed to all traffic and sign will be placed stating that fact. McDavid wanted that guide wires be put up to stop atvs from driving on the playground. Mayor Lofton stated that the park had not been discussed. Davis stated that TCEQ's biggest concerns were over the old dam and keeping people off it. McDavid asked about the road by the spillway. Mayor Lofton said the proposal is for the old lake only.

Councilmember Mayor ProTem Henderson motioned to accept the agreement for hunting at the old city lake.

Councilmember McDavid seconded this motion and the motion carried as follows:

AYES: Councilmember Milton, Councilmember Moore, Mayor Pro-Tem Henderson, Councilmember McDavid, Councilmember Porter, Mayor Lofton.

NAYS: None.

Absent: Councilmember Martinez

9. Discussion and or take action Financial support of the former Marlin's Best Western Hotel
Cedric Davis addressed the council to let them know that the Former Best Western Hotel has broken their ties with the franchise. The franchise has demanded that updates be made to the fairly new building in order to keep the name. The owners have found other franchises that they can become but the cost is a lot. La Quinta is one option they are exploring the project is about 2 million and they wanted to know if the city could take on about \$500,000 of the cost. The city help would be used for conference rooms. If they get no help, they are looking at closing. Milton asked if the city could offer tax breaks in place of

money. Mayor Pro-Tem Henderson stated that we could get the money back by keeping a business. Can the city over five years collect the money back in tax. Councilmember Porter asked if Best Western franchise was contacted to see what they say about what is being said. Davis stated that all the franchises require update, sometimes it is just a color scheme sometimes it is a complete remodel to keep them all looking alike. Porter asked where would the support money come from. He stated that the HOT policy has a lot of rules on how funds could be used. Davis stated he along with the city attorney will look at the rules and regulations before anything was acted on.

Councilmember Moore motioned to entertain supporting the branding to a different franchise ,pending due diligence and legal checks on the matter.

Councilmember Milton seconded this motion and the motion carried as follows:

AYES: Councilmember Milton, Councilmember Moore, Mayor Pro-Tem Henderson , Councilmember McDavid, Mayor Lofton.

NAYS: Councilmember Porter

Absent: Councilmember Martinez

10. Discussion and or take action business opportunity with A&A International Group Inc. .

Cedric Davis spoke to the council about the proposal from A&A. They have visited two times and they are interested in the Marlin artesian wells. They would like to buy the water and give the city a percentage of the profits. This would be a sort of partnership. Mayor Lofton spoke of the well and the work that needed to be done. A&A wants to bottle the mineral water right here in town and distribute from Marlin as well. Milton stated that it should be a joint venture between the company and Marlin and that the rights should not be given away. Mayor Pro-Tem Henderson said that the company plans on hiring about 300 employees, this would help provide jobs in Marlin. Davis told how he visited a similar set up to the one being proposed. The Chuck Norris Bottling in Navasota has a full staff and produces jobs for that community. This would provide 300 jobs to the area and the details could be worked out for a joint venture .He also stated ways the city could make sure that the fountain is still accessible to the public. McDavid stated that with the sight being right next to the railroad would they ship or truck the product out. Davis stated that they had mentioned trucking the product, but they could ask for several proposals such as an A, B, and Mayor Pro-tem Henderson suggested that the city make sure the citizens are aware of any proposals being offered. Davis said that once something is presented it can be shared with the public. Porter stated the most of the property being looked at is owned by the city. McDavid asked about the effects on the churches and residents in the area, and what would the truck route. Davis stated that all of this is just to see if the council would even entertain proposal of this nature. Henderson stated that the Super Walmart was lost because

everyone kept questioning and did not take any action. Mayor Lofton suggested that the city first receive a proposal before we get too far ahead of ourselves.

Mayor Pro-tem Henderson made a motion for A&A to come up with a proposal and present it to the council for further discussion and possible action

Councilmember McDavid seconded this motion and the motion carried as follows:

AYES: Councilmember Milton, Councilmember Moore, Mayor Pro-Tem Henderson, Councilmember McDavid, Councilmember Porter, Mayor Lofton.

NAYS: None.

Absent: Councilmember Martinez

11. Discussion and or take action Brushy Creek information.

Mayor Lofton told the council that the city is still being invoiced for this project but has no update as to where the process is. She wanted that the council do a work shop in January before the meeting with Sledge and their consultants to research the project and what has been done. Davis stated that the files in front of the council was only about a third of the files the city has on the project. There has been a lot of money spent on this project.

Maryann let the council know that digital categorizing the files would be a big project and this would have to be looked at how to best to handle .Arenda Lee addressed the council board for the project and it consisted of land owners, army core of engineers and several local lawyers. The last meeting had was when board was disbanded, they were told that the land was given back to the owners. So, what ever happened after that, could probably be answered by Leon Denena. Porter stated that is when the city sued and got the easements. The Mayor suggested that we have a work shop in before the January meeting to know what exactly to discuss with our attorneys.

No Action

12. Update MRB Grey (Gil)

Gill addressed the council, he let them know the there is not a lot going on, the closing is on the 19th of December. It will close one day and the next escrow will be wired. The city will be reimbursed for previous payments through an outlay. A copy will be forwarded to the city and which time it will get approved and a money will be released and the city will have their funds reimbursed. He is working with staff and citizens to identify problem areas.

There is a spillway grant, to work on the old spillway it is a CDBG grant of about \$300,000.

13. Discussion and review of Department Reports.

City Manager

Davis spoke to the council about previous discussions on a military grade dump truck, it will be picked up this week, and it only has 21,000 miles on it and cost the city \$5,000. There were also two carts purchased one for \$750, it runs, and one for \$250, it can either be used for parts or we can try to get it running also. The carts only go about 35 MPH and have a flatbed on the back. When we went to the TML Conference the Mayor met with the Federal Surplus vendor and they showed her what services they provide, what all they had and the low prices they sell for. They have a lot of great equipment for low cost. Maryann let the council know that through the efforts of Court Clerk, Patsy Martinez, the city won 2nd place in the best Christmas Decoration contest. Patsy worked really hard to decorate city hall, a big thanks to her.

Police

Chief McCall addressed the council and let them know that in November the PD had 345 calls for service, 127 citations, and 6 arrest. There was a situation with a dog that resulted in the media coming out, ACO has corrected the situation. Davis stated that he had spoken to Rosebud and they are now a no kill unless the dog is vicious or in bad health. McCall stated that he was grateful to Maryann, she has been of great assistance to him. The city manager has helped him to get to know the city and the police department. "Me and the city manager went to the Colgate event at the school, I did not get in the (sic) um chair but City did". McCall stated "I was not at uh, that school drug testing kids". This was to address a rumor. McCall stated "uh, uh, uh I have had people apply for the open positions, but wants to make sure that the past is not repeated, he wants good quality workers. He and City Manager are looking at ways to secure the PD more.

Fire Department

Chief Parker addressed the council and let them know that the Fire Department has a social media page, this will be used to communicate important information to the public. Parker was working with other entities to look at the old warning system. It has not worked in 25-30 years; it looks to be very expensive to repair or replace so it does not look like the matter will get very far. Engine 1 will be on the ground either Friday or next week. On November 26 council approved the lease, it will replace engine 4. The newer engine will come with about \$70,000 in loose equipment. Mayor Pro-tem Henderson stated that this is a great Christmas gift for the Fire Department.

Public Works.

Scott Fornash told the council he will be covering his department, water plant and water billing. He has been working on getting the new dump truck, he is also waiting on the old dump truck to be fixed, once he has both on the ground it will make it easier to split up the work to get more done. He is working with the county to have them grind up the roads, this

will make it easier to do the work from the bottom up to get the roads reworked. TXDOT is going to be giving some materials to the city. Scott attended a HOTCOG meeting, they were talking about a grant that would help with disposal. This would include redoing trailers, disposal of TVs, and game cams to help stop illegal dumping. The grant would reimburse the money spent by the city to dispose of items and redo trailers. Mayor Pro- tem Henderson asked if the new trash company would go and get the stuff that has been dumped illegally. Davis said he would check into that.

Water Plant

Scott told the council that Jennifer Trotter is sick that is why he is giving the report. RLC has been out on the 4th, Scott will get with Jennifer to find out what was done. Porter asked if the SCADA system was having problems. Scott stated that RLC comes and nickels and dimes the city but the repairs are never long lasting. Porter asked if Hobby was fixed. Scott stated not to his knowledge, these towers are the lively hood of the town and Scott would really like for them to be functioning ,not having to call for repairs all the time.

Water Department

Nancy is on vacation. Davis told the council that citizens have complained of high-water bills. He and the Mayor meet with VP of Neptune, water meter manufactures, and they checked the meters. The meters are good it could just be the digits in the system. Neptune will come and train employees on the billing system side. Davis said that there were a few illegal hookups that have been addressed. The numbers on water sales has increased. Mayor Lofton stated that Neptune showed how the system can show who has a water leak so notices will be sent to those that are on the report. Some are continuous or off and on leaks. This will help citizens minimize their water bills.

Finance

Judy Sisk told the council it has been a busy two weeks. The city now has a separate bank accounts for the 5% that will be used to pay back the infrastructure improvements. She is still getting familiar with INCODE and catching up old bills. Davis stated that the auditor expressed concern over the comingling of funds, he would like to see them separated and will design a blueprint of how to do so when the audit is done. He did state that the separation of the 5% was a great start. Maryann let the council know that they would need to redo things in the budget, there were items left out like donations for two different departments, these needed put back. Mayor Lofton said that the budget needs to be looked at to make sure that it is true to what the council wanted; she had noticed somethings were not as the council had wanted them to be. Judy wanted that the 5% be in an interest-bearing account, the money will just be sitting there it can make money in the meantime.

Court

Robin Miguez told the council that the teachers are going through a lot in dealing with the kids. Judge Lessman had to GED quite a few kids in court. He tries to give the kids 4-5 chances before he does this. The court collected \$21,000, of which the city kept \$13,000 and the state got \$7,000. Robin had 129 traffic citations and 2 non traffic, for a total of 131. There were no code citations. Davis stated that the new code officer just finished classes and has been issuing warnings. Robin said that Patsy will be on vacation in the middle of December. Davis told the council that policy stated that if not used employees will lose time unless the council or city manager approve for it to carry over. Since the city has been start staffed ,employees have not been able to take their time off , so the city manager has approved for the time to carry over ,he wanted to let the council know . Robin let the council know that jury trials start tomorrow.

14. Future Agenda Items.

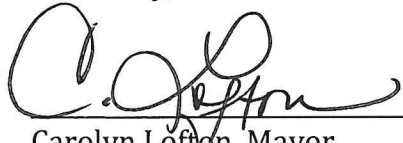
Park at the lake, Davis let the council know that in March there might be a proposal for a children's book author. He wants to set up life sized dinosaurs in the city park, each with an interactive button to teach about the dinosaur and a train to ride around the park to view each. He is from Marlin and wants to give back. Davis wanted the council to know that this proposal could be coming their way soon.

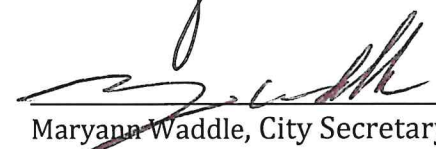
15. Adjourn.

Mayor Pro-tem Henderson made motion to adjourn, all in favor said "Aye" meeting ended at 8:35 pm

PASSED AND APPROVED ON THIS THE 12TH DAY OF May, 2020.




Carolyn Lofton, Mayor


Maryann Waddle, City Secretary