

STATE OF TEXAS
COUNTY OF FALLS
CITY OF MARLIN

On this the 4th day of April, 2019, the City Council of the City of Marlin, Texas convened in a SPECIAL CALLED 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 John Keefer
Mayor Pro-Tem Doug Porter
Scottie Henderson
Rhonda Milton
Curtis Smith
Susan Byrd
Terence McDavid

STAFF

Mike Dixon, City Attorney
Sandra Herring, City Secretary

1. Call to Order by Mayor Keefer at 6:24pm.
2. Roll Call by Sandra Herring, City Secretary.
3. Certify posting by Sandra Herring, City Secretary.
4. Pledge by Mayor Keefer and Invocation by Douglas Porter.

Council entered Executive Session at 6:25pm.

5. Executive Session: A closed executive session will be held pursuant to Section 551.074 of the Local Government Code (V.C.T.A.) so that the City Council may review and discuss the application of and interview with candidates for the position of City Prosecutor.

Council reconvened into Open Session at 7:43pm.

6. Discuss and consider action on the appointment of a City Prosecutor.
Councilmember Byrd made motion to approve Parker Law Firm to serve as Municipal Prosecutor.
Councilmember Milton seconded this motion and the motion carried as follows:
AYES: Councilmember Milton, Councilmember Smith, Councilmember Henderson, Councilmember McDavid, Councilmember Byrd, Mayor Pro-Tem Porter, Mayor Keefer.
NYES: None

Mayor Keefer skipped to 8 and request that it be in Open Session.
Human resources and Public Works Director also requested to have theirs in Open Session.

Starting with Mayor's duties. Councilmember Henderson indicated that he would prefer to start with closed session.

City Attorney shared that his part of it is just figuring out in the absence of a City Manager clarifying what the Mayor can and can't do with the day to day operation of the City like pay bills, provide oversight for employees and be able to answer employee questions. The Mayor has felt like he was unsure of what he can and can't do. Councilmember McDavid asked the City Attorney to explain what the Mayor can do since the City has no City Manager. Mike Dixon explained that the City Charter was so screwed up and explains that the Charter should refer to a department head to serve as Interim in the absence of a City Manager but the current Charter suggests the Mayor but does not allow him to do everything. The Mayor can carry out the rules, policies and ordinances but you have to go beyond that otherwise you could operate the day to day. Paying a bill or signing something that has been verified by the City Secretary as valid or if there is an employee situation or an employee causing all kinds of trouble someone needs to take care of that. Councilmember Henderson expressed concern of discussing personnel matters in open session and has understood that all personnel matter be discussed in closed session. Mike Dixon explained that the employee or officer has the right to have their case heard in open session, that is state law. Councilmember Henderson expressed that there are several of the employees who want theirs in closed session. Councilmember Milton request a copy of the City Charter Mayor Pro-Tem Porter, Mayor Keefer tonight so the Council can see how the responsibilities are getting deviated from for the Interim or City Manager. Councilmember Milton included that the Council needs to know where it begins and ends and that they need that tonight. Mike Dixon explains that an Interim the Council would engage them at will. Councilmember Milton indicated that there would need to something showing the terms of an agreement for an Interim. Mike Dixon says we are all assuming that there is something written down, but Marlin does not have that currently. Councilmember Byrd indicated to the City Attorney that he had given the Mayor an outline of duties on March 22nd that she agrees with but that it might need to be shared with the Council. Mayor indicated that it was in the packet from last week. Mike Dixon indicated that he may have not conveyed everything in that correspondence and used bad examples. Councilmember McDavid asked the Attorney if the Council is going to have to meet every time there's an employee issue? Mike Dixon indicated he was saying the opposite, he can always put them on administrative leave until the next Council meeting. In most cases the department heads have the authority. Mayor Keefer says that is questionable and that was a problem he had. It does state that for example if you're in the police department or public works but that you consult with the City Manager first before letting an employee go. Mike Dixon says that was put in there so the City Manager could pick up on any legal issues for the City. For now I guess that Mayor would be able to call city attorney to be sure there are no legal issue. Councilmember Henderson indicate that these particular employees have complaints on the City Manager and that really needs to be done in closed session and the Council was looking forward to bring those before the City Attorney. He really feels that the Council needs to do that before they get into hiring a new City Manager by cleaning up some of these issues. Councilmember Henderson continued with that the City has a lot of good employees and he thinks that this closed session will clear up a lot of issues. He doesn't what for just a few of the Council to know what has been going on, he wants the whole Council hear it. Councilmember Byrd shared that what some of these employees have to say, she is speculating, may influence the Council, one way or another, on whether its private or the Mayor duties. So, it would be premature to jump to that position now if the information that we would gain from these employees would help us in making that decision. Dixon agrees with that decision and if these is information that needs to be considered but with that said he shares that there

has to be something Interim, the City cannot just shut down. Mayor Keefer indicated that he assumed the allegations are against him so he's all for it.

Mike Dixon indicates that the time is 7:56pm and we will go into Executive Session.

- 7. Executive Session: A closed executive session will be held pursuant to Section 551.074 of the Local Government Code (V.C.T.A.) so the City Council may deliberate personnel issues and consistent application of personal policies previously adopted by Council, in addition to the appointment, employment, reassignment, promotion, duties, discipline, dismissal or resignation of a City employee or Officer:**

- **Public Works Director**
- **Code Enforcement Officer**
- **Animal Control Officer**
- **Water Office Supervisor**
- **Police Chief**
- **Patrol Officer on administrative leave**
- **Dispatcher**
- **Definition of scope of Mayor's duties when the position of City Manager vacant to be consistent with City Attorney's opinion and City Charter.**
- **Designation of Human Resources Coordinator**
- **City Secretary**

- 8. Executive Session: A closed executive session will be held pursuant to Section 551.074 of the Local Government Code (V.C.T.A.) so the Council may review and discuss the applications of candidates for the position of Interim City Manager, and appointment, employment and duties of a proposed Interim City Manager.**

Council reconvened to Open Session at 10:32pm.

- 9. Discussion and possible action on appointing Interim City Manager.**

City Attorney Mike Dixon indicated that we have received some application and some we know are still coming. I think it would be good to put this off until April 18th for a Special Meeting so we have time to vet those through the background checks.

Councilmember Byrd made motion to postpone until a Special Meeting April the 18th.

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

AYES: Councilmember Milton, Councilmember Smith, Councilmember Henderson, Councilmember McDavid, Councilmember Byrd, Mayor Pro-Tem Porter, Mayor Keefer.

NYES: None.

- 10. Discussion on certification requirements for certain positions and effort of failure to obtain certification.**

City Attorney indicated that this is on here to clear up some items with the employees. He recommends that the Finance Director to be sure that all of the certification pay is up to date and that if we missed anybody to get them caught up.

Councilmember Henderson made motion to pay certification to those that the city budgeted for that have had the required evaluations.

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

AYES: Councilmember Milton, Councilmember Smith, Councilmember Henderson, Councilmember McDavid, Councilmember Byrd, Mayor Pro-Tem Porter, Mayor Keefer.

NYES: None

11. Discussion and possible action on Re-organization of Water Department (Administration).

This was to be about security measures. We need to start working on a uniform policy disconnects and payouts to be sure that everyone is treated fairly. Took no action.

12. Discussion and possible action on Re-organization of Police Department.

Took no action.

13. Review and discussion of anti-fraternization policy.

Councilmember Byrd made motion to have the City Attorney develop a policy for the City employees and include in our personnel policy.

City Attorney indicates that there are several ways to write a policy and with grandfather clause. For instance if someone moves into a supervisory role, one of you have to transfer out to another department or leave. Dating usually not addressed unless it is in a supervisory role.

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

AYES: Councilmember Milton, Councilmember Smith, Councilmember Henderson, Councilmember McDavid, Councilmember Byrd, Mayor Pro-Tem Porter, Mayor Keefer.

NYES: None

City Attorney express his desire to add to the next agenda the designation of a human resources coordinator to the agenda. There is a whole there right now and we need to address that and we need to address that permanently. Dixon asked for a motion to place that on the next agenda.

Councilmember Byrd made the motion.

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

AYES: Councilmember Milton, Councilmember Smith, Councilmember Henderson, Councilmember McDavid, Councilmember Byrd, Mayor Pro-Tem Porter, Mayor Keefer.

NYES: None

City Attorney also shared that the City is working on an agreement with Koch Membrane that will come back to the Council when it's ready.

14. Adjourn.

Councilmember McDavid made motion to adjourn. All in favor said "I".

PASSED AND APPROVED ON THIS THE 29TH DAY OF AUGUST, 2019.



A handwritten signature in black ink, appearing to read "Scottie Henderson", written over a horizontal line.

Scottie Henderson, Mayor Pro-Tem

A handwritten signature in blue ink, appearing to read "Terence McDavid", written over a horizontal line.

Terence McDavid, Councilmember