

RESOLUTION NO. R-2014-21

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, DECLARING A USED 1997 PIERCE FREIGHTLINER FIRE TRUCK TO BE SURPLUS PROPERTY; MAKING SPECIFIC FINDINGS OF A PUBLIC PURPOSE AND OTHER FINDINGS; AND AUTHORIZING THE DONATION OF SAID SURPLUS FIRE TRUCK TO A NON-PROFIT ORGANIZATION, TO BE DONATED TO THE CITY OF SAN JOSE PANULA, GUATEMALA FOR ITS USE; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, it is the intent of the City Council to promote the public health, safety and welfare; and

WHEREAS, municipalities may, under their police powers, enact reasonable regulations to promote the public health, safety and general welfare of citizens; and

WHEREAS, the City of Tyler is a home-rule municipality acting under its Charter adopted by the electorate pursuant to Article 11, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, Texas Local Government Code Section 51.072(a) states that a home-rule municipality has full power of self-government; and

WHEREAS, Texas Local Government Code Section 51.072(b) provides that the grant of powers to a municipality under the Texas Local Government Code does not prevent by implication or otherwise, the municipality from exercising the authority incident to self-government; and

WHEREAS, Texas Local Government Code Section 51.001(1) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is for good government, peace, or order of the municipality; and

WHEREAS, Texas Local Government Code Section 51.001(2) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality; and

WHEREAS, Section 1 of the Tyler City Charter states that the City of Tyler may make any and all rules and regulations by ordinances and resolutions; and

WHEREAS, Section 1 of the Tyler City Charter provides that the City shall have all powers that now are, or hereafter may be granted to municipalities by the constitution or laws of Texas, and that all such powers, whether express or implied, shall be exercised and enforced, in the manner prescribed by the Charter, and when not prescribed by the Charter, in such manner as shall be provided by ordinances and resolutions of the City Council; and

WHEREAS, Section 2 of the Tyler City Charter states that the enumeration of particular powers by the Charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated in the Charter, the City shall have, and may exercise all other powers which, under the constitution and laws of Texas, it would be competent for the Charter specifically to enumerate; and

WHEREAS, Section 6 of the Tyler City Charter states that pursuant to the provisions of and subject only to the limitations imposed by State law and the Charter, all powers of the City

shall be vested in an elective Council, which shall, among other duties, enact legislation and determine policies; and

WHEREAS, Tyler City Code Section 4-9.d. sets forth a procedure by which transfers of surplus property, including intergovernmental transfers, may occur; and

WHEREAS, the Tyler Fire Department is currently in possession of a used 1997 Pierce Freightliner Fire Truck that is no longer needed, but that still has some usefulness; and

WHEREAS, the Tyler Fire Department has received a request that the used fire truck be donated to HOPE-Ignited, a non-profit organization, so that it can be donated to the City of San Jose Panula, Guatemala; and

WHEREAS, said donation would provide firefighting and life-saving services to the citizens of San Jose Panula; and

WHEREAS, said donation would also benefit the City of Tyler because the Fire Department would no longer be responsible for the time, effort and expense of maintaining the used fire truck; and

WHEREAS, said donation would serve a public purpose; and

WHEREAS, it is considered to be in the public interest to adopt the attached Resolution;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS:

PART 1. That a used 1997 Pierce Freightliner Fire Truck, currently valued at a Fair Market Value of \$2,500.00, VIN #1FV6JLCB9VH807880, Job Number EA783, Cummins Engine with 325 Horsepower, GVWR 38,000 lbs. with 500 gallon water tank with Waterous (brand) pump, is no longer needed by the Tyler Fire Department and is no longer needed for the Tyler Fire Department's foreseeable needs but still has some usefulness for the purpose for which it was originally intended.

PART 2. That said 1997 Pierce Freightliner Fire Truck is hereby declared to be surplus property.

PART 3. That the donation of the described surplus Fire Truck to HOPE-Ignited, a non-profit organization, is hereby authorized and approved, and that said organization shall become the rightful owner of the subject property. The Tyler Fire Department shall have primary responsibility for ensuring that the donation to the organization occurs.

PART 3. That the stated purpose of the transfer of the described surplus fire truck to HOPE-Ignited, a non-profit organization, is for said organization to then donate the fire truck to the City of San Jose Panula, Guatemala, for the benefit and protection of the citizens thereof. Said donation by the organization to the City of San Jose Panula, Guatemala, is also hereby authorized and approved.

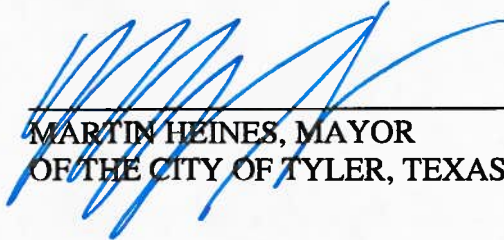
PART 4. That the Tyler City Council hereby finds and declares that said transfer of the surplus fire truck to the nonprofit organization, and its subsequent donation to the City of San Jose Panula, Guatemala, shall serve the following public purposes:

- a. The donated surplus fire truck shall promote the public health, safety and welfare because it shall be used to provide firefighting and life-saving services to the citizens of the City of San Jose Panula, Guatemala; and
- b. That the predominant purpose of said donation is for the accomplishment of a public purpose; and

- c. The City of Tyler shall receive the return benefit of no longer being responsible for the time, effort and expense of maintaining said fire truck.

PART 5. That this Resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED on this the 27th day of August, 2014.



MARTIN HEINES, MAYOR
OF THE CITY OF TYLER, TEXAS

ATTEST:



CASSANDRA BRAGER, CITY CLERK



DEBORAH G. PULLUM, CITY ATTORNEY

