



CITY COUNCIL REGULAR MEETING

Monday, May 09, 2022 at 6:30 PM

City Council Chambers | 202 N. Virginia Street, Port Lavaca TX 77979

MINUTES

STATE OF TEXAS §
COUNTY OF CALHOUN §
CITY OF PORT LAVACA §

On this the 9th day of May, 2022, the City Council of the City of Port Lavaca, Texas, convened in a regular session at 6:30 p.m. at the regular meeting place in Council Chambers at City Hall, 202 North Virginia Street, Port Lavaca, Texas, with the following members in attendance:

I. ROLL CALL

Jack Whitlow	Mayor
Jerry Smith	Councilman, District 1
Tim Dent	Councilman, District 2
Allen Tippit	Councilman, District 3
Rosie G. Padron	Councilwoman, District 4, Mayor Pro Tem
Jim Ward	Councilman, District 5
Ken Barr	Councilman, District 6

And with the following absent: None

Constituting a quorum for the transaction of business, at which time the following business was transacted:

II. CALL TO ORDER

- Mayor Whitlow called the meeting to order at 6:38 p.m. and presided.

III. INVOCATION

- Former Councilman Floyd Felder gave the invocation.

IV. PLEDGE OF ALLEGIANCE

- Mayor Whitlow – Pledge of Allegiance.

V. PRESENTATION(S) BY THE MAYOR

- Proclamations by the Mayor:
 - May is Motorcycle Awareness Month
 - National Police Week is May 15 – May 21, 2022 “Connected to our Communities”

3. National Public Works Week is May 15 – May 21, 2022 “Ready and Resilient”

VI. COMMENTS FROM THE PUBLIC - *Limited to 3 minutes per individual unless permission to speak longer is received in advance. You may make public comments as you would at a meeting on Zoom by logging on with your computer and/or smart phone as described in the zoom invitation below or on Facebook Live through the comment section, which will be monitored and answered. As appropriate.*

- Mayor asked for comments from the public and the following spoke:
 - Deborah Tomlinson, 109 LaSalle, Port Lavaca, TX, commented on the following:
 - Signs have not been put up for the 25 MPH Speed Limit since ordinance was recently adopted by Council;
 - Public Works has not cleaned up the bottom of ditches in Brookhollow Estates;
 - How long the position of Interim City Manager is going to remain in place;
 - The City Manager should live within the city limits.
 - Stacy Meza, 101 Del Mar Dr., Port Lavaca, TX, had signed up for comments but changed her mind and declined.

VII. CONSENT AGENDA - *Council will consider/discuss the following items and take any action deemed necessary*

- A. **Minutes of April 11, 2022 Regular Meeting**
- B. **Review of the Credit Card Statement**
- C. **Receive monthly Financial Highlight Report**
- D. **Receive Investment Report for Quarter ending March 31, 2022**

Motion made by Councilman District 6 Barr

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

THAT, in accordance with recommendation of staff, Council hereby approves all consent agenda items as listed:

Seconded by Councilman District 2 Dent

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippit, Councilwoman District 4 (Mayor Pro Tem) Padron, Councilman District 5 Ward, Councilman District 6 Barr

VIII. ACTION ITEMS - (Council will consider/discuss the following items and take any action deemed necessary)

1. **Administer Oaths of Office and issue Certificates of Election to newly elected officials to the Port Lavaca City Council to-wit: Jack Whitlow, Mayor, to serve a new term of two (2) years; Rosie Padron, District 4 and Jim Ward, District 5 to each serve a new term of three (3) years. Presenter is Mandy Grant**

City Secretary Grant administered the Statement of Elected Official, Oath of Office and Certificate of Election signed by the Mayor, to the following newly elected officials:

- Jack Whitlow, Mayor, At-Large Position, for a term of two (2) years; and
- Rosie Padron, Council Member, Single District Four (4), for a term of 3 years; and
- Jim Ward, Council Member, Single District Five (5), for a term of 3 years.

No action necessary and none taken.

2. **Consider election of Mayor Pro Tem by Council Members in accordance with Section 3.04 of the City of Port Lavaca Home Rule Charter. Presenter Is Mandy Grant**

Section 3.04 of the City of Port Lavaca Home Rule Charter:

“The Mayor Pro Tem shall be selected by the Council at the first regular meeting after each General Election, or upon a vacancy in the office of Mayor Pro Tem, from among the members of the Council and shall perform all duties of the Mayor in the Mayor’s absence or disability but shall vote as a Council Member.”

Mayor Whitlow advised the floor was open for nominations.

Councilman District 5 Ward nominated Councilman District 3 Tippit.

Councilman District 6 Barr seconded nomination.

Councilman District 5 Ward rescinded previous nomination.

Motion made by Councilman District 3 Tippit

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

THAT, in accordance with Section 3.04 of the City of Port Lavaca Home Rule Charter, Councilwoman Rosie Padron be elected to the office of Mayor Pro Tem and shall perform all duties of the Mayor in the Mayor’s absence or disability, but shall vote as a Council Member, effective immediately.

Seconded by Councilman District 2 Dent

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippit, Councilwoman District 4 (Mayor Pro Tem) Padron, Councilman District 5 Ward, Councilman District 6 Barr

3. **Receive report from Calhoun County Appraisal District Chief Appraiser. Presenter is Jesse Hubbell**

City Council received a report from the Calhoun County Appraisal District Chief Appraiser, Jesse Hubbell.

No action necessary and none taken.

4. **Receive report on 2022 upcoming events in Port Lavaca. Presenter is Tania French**

Tania French, Port Lavaca Events Committee, advised Council of the following events in 2022:

Star Spangled Bay Bash and Picnic

Sunday, July 03, 2022 4:00 p.m. to 10:00 p.m.

Bayfront Beats

Saturday, July 09, 2022

Saturday, July 16, 2022

Saturday, July 23, 2022

Saturday, July 30, 2022

Saturday, August 06, 2022

Saturday, August 13, 2022

Adult Recess

Jacks, Hopscotch, Marbles and more!

Thursday, July 07, 2022

Thursday, July 14, 2022

Thursday, July 21, 2022

Thursday, July 28, 2022

Rock Festival

Bikes and Kites

Saturday, July 23, 2022 10:00 a.m. to 7:00 p.m.

Hardhead Derby

Saturday, August 06, 2022

Flip Flop Festival

Saturday, September 03, 2022

Drive-In Movie

Saturday, October 29, 2022

Saturday, November 12, 2022

Christmas

Tree Lighting and More Thursday, December 01, 2022

Christmas Parade Friday, December 02, 2022

Merry on Main Saturday, December 03, 2022

Monthly Events:

Boujee on the Bay/Depot Days

Sunday, March 20, 2022

Sunday, April 24, 2022

Sunday, May 15, 2022
Sunday, June 19, 2022
Sunday, July 17, 2022
Sunday, August 21, 2022
Sunday, September 18, 2022
Sunday, October 16, 2022
Sunday, November 20, 2022
Sunday, December 18, 2022

No action necessary and none taken.

5. **Consider the use of the Bayfront Peninsula Park for the annual Hard Head Derby on Friday, August 05, 2022 and Saturday, August 06, 2022 and waiver of any fees associated with this event. Presenter is Tania French**

Motion made by Councilman District 2 Dent

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

THAT, in accordance with recommendation of staff, Council hereby approves the use of the Bayfront Peninsula Park for the annual Hard Head Derby on Friday, August 05, 2022 and Saturday, August 06, 2022 and waives any fees associated with this event

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute all instruments necessary to effect such agreement.

Seconded by Councilman District 6 Barr

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippit, Councilwoman District 4 (Mayor Pro Tem) Padron, Councilman District 5 Ward, Councilman District 6 Barr

6. **Consider request of Calhoun County Citizens in Action (CCIA) for use of George Adams Park on June 17, 18, and 19, 2022 (Friday through Sunday) for the Annual Juneteenth Celebration, Waiver of Fees associated with the event; with the exception of the Alcohol in Park Fee. Presenter is Jody Weaver**

(Interim City Manager Weaver was not in attendance).

Comments were made by Floyd Felder on the excellent job that Interim City Manager Weaver and Public Works Director Shafer were doing on behalf of this event.

The Police Chief has authority over any street closure as he deems necessary for safety and the next agenda item for this event will include this wording.

Motion made by Councilman District 6 Barr

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

THAT, in accordance with recommendation of staff, Council hereby approves request of Calhoun County Citizens in Action (CCIA) for use of George Adams Park on June 17, 18, and 19, 2022 (Friday through Sunday) for the Annual Juneteenth Celebration, waives fees associated with the event; with the exception of the Alcohol in Park Fee.

Seconded by Councilman District 5 Ward

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippit, Councilwoman District 4 (Mayor Pro Tem) Padron, Councilman District 5 Ward, Councilman District 6 Barr

7. **Consider authorizing Hotel Occupancy Tax (HOT) Funding for Entertainment and Security for the 2022 Juneteenth Event sponsored by the Calhoun County Citizens In Action Committee (CCIA). Presenter is Jody Weaver**

(Interim City Manager Weaver was not in attendance).

The Calhoun Citizens in Action (CCIA) committee has requested authorization from Council to utilize Hotel Occupancy Tax (HOT) Funds to support the Entertainment and Security expenses of the 2022 Juneteenth Celebration. Council budgeted \$2,500 in "Special Events-Other" in the Hotel Occupancy Tax (HOT) Fund of the current budget year for the Juneteenth Celebration. Tania French, the City Events Coordinator, will work with the CCIA and payment of expenses for Entertainment and Security, in an amount not to exceed \$2,500.00 will be paid to applicable service providers directly.

Staff recommends authorizing the expenditure of budgeted Hotel Motel Tax (HOT) Funds, in an amount not to exceed \$2,500.00, to help fund Entertainment and Security expenses for the Juneteenth Celebration on June 17, 18, and 19, 2022.

Motion made by Councilman District 1 Smith

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

THAT, in accordance with recommendation of staff, Council hereby approves authorizing Hotel Occupancy Tax (HOT) Funding, in an amount not to exceed \$2,500.00, for Entertainment and Security for the 2022 Juneteenth Event sponsored by the Calhoun County Citizens In Action Committee (CCIA).

Seconded by Councilwoman District 4 (Mayor Pro Tem) Padron

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippit, Councilwoman District 4 (Mayor Pro Tem) Padron, Councilman District 5 Ward, Councilman District 6 Barr

8. **Receive presentation of annual Police Department Activity Report for 2020-2021. Presenter is Colin Rangnow**

Police Chief Rangnow presented the annual Racial Profiling Report to City Council.

No action necessary and none taken.

9. **Receive quarterly report from the Police Department for the newly formed Mental Health Peace Officer position. Presenter is Clinton Wooldridge**

Clinton Wooldridge, Mental Health Peace Officer for the Police Department presented a quarterly report to City Council.

No action necessary and none taken.

10. **Consider request of Justin Karl for a Port Lavaca PRIDE Incentive Grant in an amount not to exceed \$5,000.00 to help fund improvements to 132 E. Main Street. Presenter is Jody Weaver**

(Interim City Manager Weaver was not in attendance).

City Attorney Odefey presented agenda item to Council on behalf of Weaver:

Justin Karl has submitted the attached Port Lavaca Pride Incentive (Façade) Grant application. He is the owner of the building at 132 E. Main Street, which is across the street from the Green Iguana and next door to the old Indianola Trading Company. He is working to open this building as a retail space sometime this summer. Possibilities include a boutique of some sort or a candy and/or ice-cream shoppe. The building is in dire need of a new roof in order to proceed with the plans to make this a usable space and viable business, which would provide 2 to 3 new jobs.

Justin has submitted two (2) roofing bids. He has verified with Lynn & Associates Engineering that the proposal from C.N. Roofing does qualify for a WPI-8 windstorm certification and C.N. Roofing has included the cost of windstorm inspections in their bid. Justin is requesting consideration of an Incentive (Façade) Grant to fund 50% of the cost of this new roof, which would be \$4,592.50 without any additional roof decking (carpentry) work.

Because of the urgency to get this space dried-in as soon as possible, Justin is also requesting that if the Council approves this application, that the project not be disqualified if the contractor is able to begin the work this week, prior to Council action on May 09, 2022.

The purpose of this Program is to enhance the economic vitality of the City of Port Lavaca. This can be accomplished by encouraging visually appealing physical improvements to local business, but also by helping to provide critical infrastructure improvements needed for the building to become a usable space for a viable business, such as a re-roof. The City has \$25,000.00 budgeted in Economic Development for such Incentive (Façade) Grants. This is the first application received this fiscal year.

The Economic Development Committee recommends approval of the application with the stipulation that reimbursement of 50% of the documented actual cost of the reroof, or \$5,000.00 whichever is greater, will be paid by the City to Justin Karl within 30 days after the building begins operation as a retail space. This Incentive Grant will be valid for only one year. If the building is not in use as a retail space prior to May 9, 2023, this Incentive grant will be invalid.

Motion made by Councilman District 3 Tippit

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

THAT, in accordance with recommendation of the Economic Development Committee and staff, Council hereby authorizes reimbursement of 50% of the documented actual cost of the reroof, or \$5,000.00, whichever is greater, will be paid by the City to Justin Karl within 30 days after the building begins operation as a retail space at 132 E. Main Street.

BE IT ALSO RESOLVED that this Incentive Grant will be valid for only one (1) year. If the building is not in use as a retail space prior to May 09, 2023, this Incentive grant will be invalid.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute all instruments necessary to effect such agreement.

Seconded by Councilman District 5 Ward

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippit, Councilwoman District 4 (Mayor Pro Tem) Padron, Councilman District 5 Ward, Councilman District 6 Barr

11. **Consider approving Second Amendment to Ad Valorem Tax Rebate Agreement entered between Ho Enterprises, LLC and the City of Port Lavaca dated July 18, 2018. Presenter is Anne Marie Odefey**

(Interim City Manager Weaver was not in attendance).

The following is Weaver's memo to Council and City Attorney Odefey presented:

Section 6.5.2 of the Ad Valorem Tax Rebate Agreement with Ho Enterprises, LLC signed on July 11, 2018 identifies sixteen duplex lots (Lots 63-78) on West Aimable and sixteen duplex lots (lots 1-16) on Cardinal Drive (formally Pass Cavallo) as having the requirement that the sales price of each duplex unit shall not exceed \$150,000.00 including the lot. This is a total of thirty-two duplex unit lots.

Ho Enterprises, LLC constructed a duplex on lots 77 and 78 on West Aimable incorporating additional features with the original intent to utilize this duplex as a model home. Because of the additional features, the value of the home, including the lot, exceeds the maximum limit of \$300,000 (\$150,000 per unit). Ho Enterprises, LLC now has a buyer wanting to purchase this duplex at a price greater than \$300,000. In order to allow the sale of the duplex on Lots 77 and 78 to proceed without imposing a monetary loss to Ho Enterprises, LLC, they are requesting to amend the agreement in order to waive this sales price cap

for Lots 77 and 78 and instead impose this sales price cap on **Lots 57 and 58 instead**. Nothing else in the agreement is proposed for change.

All infrastructure is installed, with the exception of the playground structures in the Subdivision Park, which is on backorder due to supply chain issues. The site work for this playscape is scheduled to begin next week. Ho Enterprises, LLC has submitted all of the approved development costs to date contingent on Weaver's review. Ho Enterprises, LLC has not received any rebate payment to date since no compliant duplex unit construction has occurred as stipulated in the Agreement.

Council was shown a chart showing the homes which have been permitted for construction in Claret Crossing to date; however, none of these homes are on the lots with the sales cap requirement (other than 102 and 104 W. Aimable, being lots 77 and 78, which are the topic of this amendment). Mr. Ho is currently collaborating with a builder on a proposal to build homes on the remaining available lots from Lot 17 - 52 and 79 - 84. These lots do not have any sales price restriction per the Rebate Agreement.

As stated above, approval of this Amendment does not make any change to the \$150,000.00 per unit sale price limit on a total of thirty-six units in the subdivision that is stated in Section 6.5.2 of the Agreement. Mr. Ho has however expressed some concerns about his ability to meet the \$150,000.00 per unit sale price limit under the current economic conditions. Section 6.8 of the agreement discusses "Economic Changes" and allows for Mr. Ho to propose changes to the agreement with supporting documentation; however, he will do so at a later time.

Motion made by Councilman District 2 Dent

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

THAT, in accordance with recommendation of City Attorney and staff, Council hereby approves the Second Amendment to Ad Valorem Tax Rebate Agreement entered between Ho Enterprises, LLC and the City of Port Lavaca dated July 18, 2018, a copy which is on file, in its entirety in the office of the City Secretary.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute all instruments necessary to effect such agreement.

Seconded by Councilman District 1 Smith

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippit, Councilwoman District 4 (Mayor Pro Tem) Padron, Councilman District 5 Ward, Councilman District 6 Barr

12. **Consider Second and Final Reading of an Ordinance (G-4-22) amending the ordinance codified and described in the City of Port Lavaca Code of Ordinances as Part II, Appendix A – Fees, Rates and Charges (Chapter 38 – Solid Waste) and providing an effective date. Presenter is Jody Weaver**

Motion made by Councilman District 5 Ward

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT LAVACA, TEXAS:

THAT, in accordance with recommendation of staff, Council hereby approves the second and final reading of an Ordinance (G-4-22) amending the ordinance codified and described in the City of Port Lavaca Code of Ordinances as Part II, Appendix A – Fees, Rates and Charges (Chapter 38 – Solid Waste).

Seconded by Councilman District 6 Barr

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippit, Councilwoman District 4 (Mayor Pro Tem) Padron, Councilman District 5 Ward, Councilman District 6 Barr

13. **Consider Resolution No. R-050922-1 of the City of Port Lavaca, Texas finding that AEP Texas Inc.'s application to amend its Distribution Cost Recovery Factors (DCRF) to increase distribution rates within the city should be denied; authorizing participation with the cities served by AEP Texas; authorizing hiring of legal counsel; finding that the city's reasonable rate case expenses shall be reimbursed by the company; finding that the meeting at which this resolution is passed is open to the public as required by law; requiring notice of this resolution to the company and legal counsel. Presenter is Anne Marie Odefey**

Motion made by Councilman District 5 Ward

WHEREAS, the City of Port Lavaca, Texas ("City") is an electric utility customer of AEP Texas Inc. ("AEP" or "Company"), and a regulatory authority with an interest in the rates and charges of AEP; and

WHEREAS, the City is a member of the Cities Served by AEP ("Cities"), a membership of similarly situated cities served by AEP that have joined together to efficiently and cost effectively review and respond to electric issues affecting rates charged in AEP's service area; and

WHEREAS, on or about April 6, 2022 AEP filed with the City an Application to Amend its Distribution Cost Recovery Factor ("DCRF"), PUC Docket No. 53451, seeking to increase electric distribution rates by approximately \$27.56 million (an approximately \$1.28 increase to the average residential customer's bill from the rates approved in the Company's most recent DCRF case); and

WHEREAS, all electric utility customers residing in the City will be impacted by this ratemaking proceeding if it is granted; and

WHEREAS, Cities are coordinating its review of AEP's DCRF filing with designated attorneys and consultants to resolve issues in the Company's application; and

WHEREAS, Cities members and attorneys recommend that members deny the DCRF.

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

Section 1. That the City is authorized to participate with Cities in PUC Docket No. 53451.

Section 2. That subject to the right to terminate employment at any time, the City of hereby authorizes the hiring of the law firm of Lloyd Gosselink and consultants to negotiate with the Company, make recommendations to the City regarding reasonable rates, and to direct any necessary administrative proceedings or court litigation associated with an appeal of this application filed with the PUC.

Section 3. That the rates proposed by AEP to be recovered through its DCRF charged to customers located within the City limits, are hereby found to be unreasonable and shall be denied.

Section 4. That the Company shall continue to charge its existing rates to customers within the City.

Section 5. That the City's reasonable rate case expenses shall be reimbursed in full by AEP within 30 days of presentation of an invoice to AEP.

Section 6. That it is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public as required by law and the public notice of the time, place, and purpose of said meeting was given as required.

Section 7. That a copy of this Resolution shall be sent to Leila Malham, American Electric Power Service Corporation, 400 West 15th Street, Suite 1520, Austin, Texas 78701 and to Thomas Brocato, General Counsel to the Cities, at Lloyd Gosselink Rochelle & Townsend, 816 Congress Ave., Suite 1900, Austin, Texas 78701.

Seconded by Councilman District 2 Dent

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippit, Councilwoman District 4 (Mayor Pro Tem) Padron, Councilman District 5 Ward, Councilman District 6 Barr

14. **Consider Resolution No. R-050922-2 of the City of Port Lavaca, Texas, authorizing Signatories for the Community Development Block Grant – Mitigation (CDBG-MIT) from the Texas General Land Office for Local Infrastructure Program Contract Number 22-087-001-D226. Presenter is Susan Lang**

Motion made by Councilman District 5 Ward

WHEREAS, the City of Port Lavaca was awarded a Community Development Block Grant-Mitigation (CDBG-MIT) from the Texas General Land Office (GLO) for drainage improvements that will increase resilience to disasters and reduce or eliminate long-term risk of life, damage to and loss of property, and suffering and hardship by lessening the impact of future disasters and will provide a suitable living environment and expanding opportunities, principally for persons of low-to-moderate income; and

WHEREAS, certain condition exists related to Hurricane Harvey, an eligible federally declared disaster in 2017, which represents a threat to the public health, safety and welfare; and

WHEREAS it is necessary to authorize signatories for various GLO documents for the City of Port Lavaca to participate under the CDBG-MIT grant.

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

Section 1. The City Council directs and designates the City Mayor and the City Manager as contractual signatories and the Mayor, City Manager Finance Director, and Senior Accountant as financial signatories.

Section 2. This resolution shall become effective immediately upon adoption.

Seconded by Councilman District 6 Barr

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippit, Councilwoman District 4 (Mayor Pro Tem) Padron, Councilman District 5 Ward, Councilman District 6 Barr

15. **Consider Resolution No. R-050922-3 to adopt the City of Port Lavaca's Budgetary and Financial Management Policies for the 2021-2022 Fiscal Year. Presenter is Susan Lang**

Author's Note:

Typo in agenda item to be corrected from 2021-2022 Fiscal Year to 2022-2023 Fiscal Year.

Finance Director Lang presented Council with the City of Port Lavaca Financial Management and Budgetary Policies for the 2022-2023 Fiscal Year, by Resolution Number R-050922-3, a copy of which is in the office of the City Secretary, in its entirety. Staff recommends approval of policies.

Motion made by Councilman District 5 Ward

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

THAT, in accordance with recommendation of staff, Council hereby acknowledges correction of typo for fiscal year and adopts the City of Port Lavaca Financial Management and Budgetary Policies for the 2022-2023 Fiscal Year, by Resolution No. R-050922-3, a copy of which is in the office of the City Secretary, in its entirety.

Seconded by Councilman District 6 Barr

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippit, Councilwoman District 4 (Mayor Pro Tem) Padron, Councilman District 5 Ward, Councilman District 6 Barr

16. **Consider Resolution No. R-050922-4 of the City of Port Lavaca to adopt required Community Development Block Grant (CDBG) Civil Rights Policies. Presenter is Susan Lang**

Motion made by Councilman District 5 Ward

WHEREAS, the City of Port Lavaca, Texas, (hereinafter referred to as "City of Port Lavaca") has been awarded Community Development Block Grants (CDBG);

WHEREAS, the City of Port Lavaca has previously adopted policies and procedures in regard to Civil Rights procedures in compliance with Section 109 of the Title I of the Housing and Community Development Act. (24 CFR 6); the Age Discrimination Act of 1975 (42 U.S.C. 6101-6107); and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and for construction contracts greater than \$10,000, must take actions to ensure that no person or group is denied benefits such as employment, training, housing, and contracts generated by the CDBG activity, on the basis of race, color, religion, sex, national origin, age, or disability;

WHEREAS, the City of Port Lavaca, in consideration for the receipt and acceptance of federal funding for the Contract, agrees to comply with all federal rules and regulations including those rules and regulations governing citizen participation and civil rights protections;

WHEREAS, the City of Port Lavaca, in accordance with Section 3 of the Housing and Urban Development Act of 1968, as amended, and 24 CFR Part 135 is required, to the greatest extent feasible, to provide training and employment opportunities to lower income residents and contract opportunities to businesses in the CDBG project areas;

WHEREAS, the City of Port Lavaca, in accordance with Section 104(1) of the Housing and Community Development Act, as amended, and State's certification requirements at 24 CFR 91.325(b)(6), must adopt an excessive force policy that prohibits the use of excessive force against non-violent civil rights demonstrations;

WHEREAS, the City of Port Lavaca, in accordance with Executive Order 13166, must take reasonable steps to ensure meaningful access to services in federally assisted programs and activities by persons with limited English proficiency (LEP) and must have an LEP plan in place specific to the locality and beneficiaries for each CDBG project;

WHEREAS, the City of Port Lavaca, in accordance with Section 504 of the Rehabilitation Act of 1973, does not discriminate on the basis of disability and agrees to ensure that qualified individuals with disabilities have access to programs and activities that receive federal funds; and

WHEREAS, the City of Port Lavaca, in accordance with Section 808(e)(5) of the Fair Housing Act (42 USC 3608(e)(5)) that requires HUD programs and activities be administered in a manner affirmatively to further the policies of the Fair Housing Act, agrees to conduct at least one activity during the contract period, to affirmatively further fair housing;

WHEREAS, the City of Port Lavaca, has designated an overseer and will maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORT LAVACA, TEXAS, THAT THE CITY OF PORT LAVACA AMENDS THE FOLLOWING:

1. Citizen Participation Plan and Grievance Procedures;
2. Section 3 Policy;
3. Excessive Force Policy;
4. Limited English Proficiency (LEP) Standards Plan;
5. Section 504 Policy and Grievance Procedures;
6. Code of Conduct Policy; and
7. Fair Housing Policy

Seconded by Councilman District 6 Barr

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippit, Councilwoman District 4 (Mayor Pro Tem) Padron, Councilman District 5 Ward, Councilman District 6 Barr

17. **Consider Resolution No. R-050922-5 of the City of Port Lavaca for Professional Engineering Services with Mott MacDonald. LLC for the Texas Community Development Block Grant-Mitigation (CDBG-MIT) Coastal Resiliency Project Contract #22-087-001-D226 in the amount not to exceed \$1,664,025.00. Presenter is Jody Weaver**

Motion made by Councilman District 5 Ward

WHEREAS, the City of Port Lavaca (the "Subrecipient") and Mott MacDonald LLC, Tax Identification Number 11610067008 ("Provider"), each a "Party" and collectively, "the Parties," enter into the following contract for professional engineering services (the "Contract") pursuant to the Professional Services Procurement Act, TEX. GOVT. CODE 2254 and 2 C.F.R. Part 200.

WHEREAS, the Subrecipient has received U.S. Department of Housing and Urban Development Community Development Block Grant - Mitigation ("CDBG-MIT") funds, administered by the Texas General Land Office ("GLO") for damage sustained from Hurricane Harvey; and

WHEREAS, the CDBG-MIT program is funded under the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2016, Pub. L. No. 114-113.

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

1. That the Mayor is authorized to execute a Grant Professional Engineering Services agreement with Mott MacDonald, LLC to provide grant engineering services for the Community Development Block Grant Mitigation (CDBG- MIT) Coastal Resiliency Program, Contract No. 20-087-001-D226, in the amount not to exceed One Million, Six Hundred Sixty-Four Thousand, Twenty-Five Dollars (\$1,664,025.00), substantially in the form attached hereto and incorporated herein, with changes in form as approved by the City Attorney.
2. That this resolution shall become effective immediately upon adoption

Seconded by Councilman District 3 Tippit

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippit, Councilwoman District 4 (Mayor Pro Tem) Padron, Councilman District 5 Ward, Councilman District 6 Barr

18. **Consider awarding bid to fence contractor for the Public Works Perimeter Fence Project, Phase 1 of 3. Presenter is Wayne Shafer**

Public Works Director Shafer advised Council that the perimeter fence around the public works service center has exceeded its useful life and no longer provides a means to secure the property. It is imperative to replace all of the fence to ensure compliance with Texas Commission on Environmental Quality (TCEQ) due to water storage tanks on site. Given the cost of replacement, the project has been broken into three phases, with the first phase being this year and the second and third phases coming in the following years.

Three bids were received and they are as follows:

Coastal Fence & Irrigation, LLC	Victoria	\$25,500.00
Krettek Fence Co.	Port O'Connor	\$25,900.00
South Texas Fence & Deck	Victoria	\$33,050.00

Shafer advised that \$25,000.00 is budgeted for the current 2021-2022 fiscal year and will need to add an additional \$500.00 to award the contract. Staff recommends Council award bid to Coastal Fence and Irrigation, LLC in the amount of \$25,500.

Motion made by Councilman District 2 Dent

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

THAT, in accordance with recommendation of staff, Council hereby approves awarding bid to fence contractor for the Public Works Perimeter Fence Project, Phase 1 of 3 to Coastal Fence & Irrigation, LLC of Victoria, Texas in the amount of \$25,500.00.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute all instruments necessary to effect such agreement.

Seconded by Councilman District 6 Barr

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippit, Councilwoman District 4 (Mayor Pro Tem) Padron, Councilman District 5 Ward, Councilman District 6 Barr

19. **Consider recommendation of the Planning Board for a variance request to the Signs Ordinance from Prosperity Bank. Presenter is Jody Weaver**

(Interim City Manager Weaver was not in attendance).

Finance Director Slang presented agenda item to Council on behalf of Weaver:

The variance request is for a 30-foot-high freestanding pole sign with a 130 sq. ft. surface area. This sign will be located at 1107 N SH 35 on the Prosperity Bank property.

In September of 2021, the Planning Board denied the variance request made by Prosperity bank for a 75-foot-high freestanding sign with a 360 square foot surface area, similar to that of Whataburger. The Planning Board made this decision so as not to set precedent for future city growth.

In June of 2016, the City Council approved the Whataburger variance for the 75-foot freestanding pole sign with a 355 sq. ft. surface area. Consideration was given to this variance, as this sign dimension was the prior Whataburger sign dimension in their former location; therefore, it was reviewed with a legal nonconforming use intent.

In August of 2014, the City Council approved a variance for the Port Lavaca Ford Dealership requesting to place a sign that is 47.5-foot in height.

Planning Board assessed that the current variance request represents a sign that is 30% greater than the maximum surface area and 20% greater than the sign code maximum height; however, it represents a sign that is comparable to what is existing across the highway at Wal-Mart. The Planning Board also discussed a 30-foot height becoming the new standard for freestanding pole signs located on highway 35. Staff concurs with the Planning Board in approving this request from Prosperity Bank.

Motion made by Councilman District 5 Ward

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

THAT, in accordance with recommendation of the Planning Board and staff, Council hereby approves a variance request to the Signs Ordinance from Prosperity Bank for a 30-foot-high freestanding pole sign with a 130 sq. ft. surface area, located at 1107 N SH 35 on the Prosperity Bank property.

Seconded by Councilman District 6 Barr

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippit, Councilwoman District 4 (Mayor Pro Tem) Padron, Councilman District 5 Ward, Councilman District 6 Barr

20. **Announcement by Mayor that City Council will retire into closed session:**

- **For consultation with City Attorney on matters in which the duty of the Attorney to the City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Open Meetings Act (Title 5, Chapter 551,–Section 551.071(2) of the Texas Government Code). Presenter is Mayor Whitlow**

Mayor announced there would be no closed session.

21. **Return to Open Session and take any action deemed necessary with regard to matters in closed session. Presenter is Mayor Whitlow**

Mayor announced there would be no closed session.

IX. ADJOURNMENT

Mayor asked for motion to adjourn.

Motion made by Councilman District 6 Barr, Seconded by Councilman District 5 Ward

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippit, Councilwoman District 4 (Mayor Pro Tem) Padron, Councilman District 5 Ward, Councilman District 6 Barr

Meeting adjourned at 8:34 p.m.

These minutes were approved on June 13, 2022.

ATTEST:

Jack Whitlow, Mayor

Mandy Grant, City Secretary