



CITY COUNCIL REGULAR MEETING

Monday, March 14, 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 14th day of March, 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
Jim Ward	Councilman, District 5
Ken Barr	Councilman, District 6

And with the following absent:

Rosie G. Padron	Councilwoman, District 4, Mayor Pro Tem
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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 6:34 p.m. and presided.

III. INVOCATION

- Councilman Ward gave the invocation.

IV. PLEDGE OF ALLEGIANCE

- Mayor Whitlow – Pledge of Allegiance.

V. PRESENTATION(S) BY THE MAYOR

- None.

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 there were none.

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

- A. Minutes of February 14, 2022 Regular Meeting
- B. Minutes of February 28, 2022 Special Meeting
- C. Review of the Credit Card Statement
- D. Receive monthly Financial Highlight Report
- E. Ratify Lease for Allied Universal Security Services for Suites 1E and 1F at Nautical Landings Marina Building

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 approves all consent agenda items as listed:

Seconded by Councilman District 6 Barr

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippit, 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. **Receive Update Report from the Calhoun County 911 Emergency Communication District on the American Rescue Plan Grant awarded to Calhoun 911. Presenter is Raquel Morales**

Raquel Morales presented Council with an update report.

No action necessary and none taken.

2. **Conduct Public Hearing for intent of the City of Port Lavaca to establish the Property Assessed Clean Energy (PACE) Program. Presenter is Jody Weaver**

Mayor opened Public Hearing at 6:46 p.m.

Former Economic Development Director, Jessica Carpenter, spoke on this subject, by Zoom. No one in the Public spoke on this matter.

Mayor closed Public Hearing at 6:49 p.m.

No action necessary and none taken.

3. Consider Resolution No. R-031422-1 of the City of Port Lavaca to Establish the Property Assessed Clean Energy (PACE) Program. Presenter is Jody Weaver

Motion made by Councilman District 2 Dent

WHEREAS, the 83rd Regular Session of the Texas Legislature enacted the Property Assessed Clean Energy Act, Texas Local Government Code Chapter 399 (the "PACE Act"), which allows the governing body of a local government, including a City or County, to designate an area of the territory of the local government as a region within which an authorized representative of a local government and the record owners of commercial, industrial, and large multifamily residential (5 or more dwelling units) real property may enter into written contracts to impose assessments on the property to repay the financing by the owners of permanent improvements fixed to the property intended to decrease energy or water consumption or demand;

WHEREAS, the installation or modification by property owners of qualified energy or water saving improvements to commercial, industrial, and large multifamily residential real property in the City of Port Lavaca, Texas will further the goals of energy and water conservation without cost to the public;

WHEREAS, the City Council finds that third-party financing of energy and water conserving projects through contractual assessments maintained by the City ("PACE financing") furthers essential government purposes, including but not limited to, economic development, reducing energy consumption and costs, conserving water resources, and reducing greenhouse gas emissions;

WHEREAS, the City Council adopted a Resolution of Intent to establish a PACE program for City on February 14, 2022, including a reference to the report on the proposed program prepared as required by Section 399.009 of the PACE Act and made the report available to the public on the City's website and for inspection in the City Manager's office;

WHEREAS, The City Council finds that the administration of the PACE program by a qualified non-profit organization as an independent third-party Authorized Representative contracted by the City and compensated by application and administration fees paid by the participating property owners, will enable the program to be administered without use of City resources, will assure the objectives of impartiality and confidentiality of owner information, and will be convenient and advantageous to the City;

WHEREAS, the City Council also finds that because no City funds will be expended for PACE financing of the Authorized Representative's services, the selection of such an independent third-party Authorized Representative is not subject to the Professional Services Procurement Act or other City purchasing requirements; and

WHEREAS, the City Council held a public hearing on March 14, 2022 at 6:30 p.m. in the in the Council Chambers at City Hall, 202 n. Virginia Street, Port Lavaca, Texas 77979, at which the public hearing could comment on the proposed program, including the report available for public inspection as mentioned above and as required by Section 399.008(a)(2).

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

1. **Recitals.** The recitals to this Resolution are true and correct and are incorporated into this resolution for all purposes.
2. **Establishment of Program.** The City hereby adopts this Resolution Establishing the City of Port Lavaca Property Assessed Clean Energy Program (“Port Lavaca PACE”), herein called “the Program,” and finds that financing qualified projects through contractual assessments pursuant to the PACE Act is a valid public purpose and is convenient and advantageous to the City and its citizens.
3. **Contractual Assessments.** The City will, at the property owner’s request, impose contractual assessments on the property to repay PACE financing for qualified energy and water conserving projects available to owners of privately owned commercial, industrial, and large multifamily property.
4. **Qualified Projects.** The following types of projects are qualified projects for PACE financing that may be subject to such contractual assessments:
 - Projects that (a) involve the installation or modification of a permanent improvement fixed to privately owned commercial, industrial, or residential real property with five (5) or more dwelling units, and (b) are intended to decrease energy or water consumption or demand, including a product, device, or interacting group of products or devices on the customer’s side of the meter that uses energy technology to generate electricity, provide thermal energy, or regulate temperature.
 - An assessment may not be imposed to repay the financing of facilities for undeveloped lots or lots undergoing development at the time of the assessment, or the purchase or installation of products or devices not permanently fixed to real property.
5. **Region.** The boundaries of the entire geographic area within the City’s jurisdiction, including its extraterritorial jurisdiction, are included in the boundaries of the region where PACE financing and assessments can occur.
6. **Third- Party Financing.** Financing for qualified projects under the Program will be provided by qualified third-party lenders chosen by the owners. Such lenders will execute written contracts with the Authorized Representative to service the debt through assessments, as required by the PACE Act. The contracts will provide for the lenders to determine the financial ability of owners to fulfill the financial obligations to be repaid through assessments, advance the funds to owners on such terms as are agreed between the lenders and the owners for the installation or modification of qualified projects, and service the debt secured by the assessments, directly or through a servicer, by collecting payments from the owners pursuant to financing documents executed between the lenders and the owners. The City will maintain and continue the assessments for the benefit of such lenders and will enforce the assessment lien for the benefit

of a lender in the event of a default by an owner. The City will not, at this time, provide financing of any sort for the Port Lavaca PACE program.

7. **Authorized Representative.** The City Council will designate Texas PACE Authority, a non-profit organization, to act as the Authorized Representative with authority to enter into written contracts with the record owners of real property in the City to impose assessments pursuant to the PACE Act to repay the financing of qualified projects on the owners' property, to enter into written contracts with the parties that provide third-party financing for such projects to service the debts through assessments, and to file written notice of each contractual assessment in the real property records of Calhoun County, all on behalf of the City. The Authorized Representative may make technical and conforming updates as necessary so long as the changes are consistent with the resolution to establish the PACE program and the statute. The City Manager or her designee will be the liaison with the Authorized Representative.
8. **Enforcement.** The City will enforce the collection of past due assessments and may contract with a qualified law firm to assist in collection efforts.
9. **Report.** The final report on the Port Lavaca PACE program, prepared in accordance with Section 399.009 of the Texas Local Government Code is attached and incorporated into this resolution. The City will post the resolution and report on the City's website.
10. **Amendment of Program.** The City Council may amend the Port Lavaca PACE Program by resolution. However, another public hearing is required before the Program may be amended to provide for City financing of qualified improvements through assessments.

Seconded by Councilman District 1 Smith

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippit, Councilman District 5 Ward, Councilman District 6 Barr

4. **Consider a Services Agreement authorizing administration of Texas Property Assessed Clean Energy (PACE) Program for the City of Port Lavaca. Presenter is Jody Weaver**

Former Development Services Director Carpenter was in attendance via ZOOM to address Council. She said that the Texas Property Assessed Clean Energy (TX-PACE) is a voluntary program that creates jobs, improves the environment, and saves Texas companies money on their utility bills. Local governments across the state are taking advantage of the Texas PACE statute and establishing programs to further provide quality and valuable services to their constituencies, stakeholders, and taxpayers.

The Texas PACE Act, Chapter 399 of the Local Government Code, is a local adoption model. The Texas "PACE in a Box" model was created by over 130 PACE stakeholders to facilitate a consistent, user-friendly approach to TX-PACE design and implementation. The model has been unanimously adopted by every local government establishing a TX-PACE program in Texas.

The model plug and play program contains consumer protection underwriting and technical best practices and model documents. "PACE in a Box" has minimal impact on government staff, adds no additional cost to the general taxpayer or burden to the treasury, and is administered by a nonprofit that does not

compete with the private sector. Texas PACE Authority administers the uniform “PACE in a Box” model as a public service on behalf of local governments and is funded through user fees and grants.

PACE is 100% financing for energy and water efficiency improvements to industrial, commercial, multi-family residential, and non-profit buildings. PACE is essentially a long-term (typically 10-20 year), low-cost loan for such improvements as:

- HVAC modification or replacement
- Light fixture modifications such as LED
- Solar panels
- Solar hot water
- Gray water reuse
- Rainwater collection system
- Water use efficiency improvements
- Energy or water-efficient manufacturing processes and/or equipment
- Automated energy control systems
- Insulation, caulking, weather-stripping or air sealing
- High-efficiency windows or doors

Staff recommends approval of a Services Agreement authorizing administration of Texas Property Assessed Clean Energy (PACE) Program for the City of Port Lavaca.

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 a Professional Services Agreement between the City of Port Lavaca and the Texas Property Assessed Clean Energy (PACE) Authority to engage the services of a qualified professional to Administer a Texas Property Assessed Clean Energy (PACE) Program for the City of Port Lavaca.

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 Tippet, Councilman District 5 Ward, Councilman District 6 Barr

5. Consider certification of City Secretary that all candidates in the May 07, 2022 General Officers Election are unopposed. Presenter is Mandy Grant

The following was presented to City Council (English and Spanish):

I, Mandy Grant, certify that I am the City Secretary of the City of Port Lavaca, Texas, and the authority responsible for preparing the ballot for the May 07, 2022 general city election.

(Yo, Mandy Grant, certifica que soy la secretaria de la ciudad de Port Lavaca, Texas y la autoridad responsable de preparar la balota para la elección general de la ciudad del 7 de Mayo de 2022).

I further certify that no proposition is to appear on the ballot for the May 07, 2022 election, no person has made a declaration of write-in candidacy, and all of the following candidates are unopposed: *(Certifico más lejos que no hay asunto aparecer en la balota para la elección del 7 de mayo de 2022, ninguna persona he hecho una declaración de candidatura inscrita, y todos los candidatos siguientes son sin oposición):*

OFFICE (CARGO)	CANDIDATE (CANDIDATO)
Council Member, Mayor <i>(Miembro de Consejo, Alcalde)</i>	Jack Whitlow
Council Member, District #4 <i>(Miembro de Consejo, Distrito #4)</i>	Rosie Padron
Council Member, District #5 <i>(Miembro de Consejo, Distrito #5)</i>	Jim Ward

No action necessary and none taken.

6. Consider adopting an order canceling the May 07, 2022 General Officers Election, specifically the Council Members for Mayor, Single Districts #4 , Single District #5 and further declaring the unopposed candidates duly elected. Presenter is Mandy Grant

The following was presented by City Secretary Grant (English and Spanish):

The City Council of the City of Port Lavaca, Texas hereby cancels the election scheduled to be held on May 07, 2022 in accordance with Section 2.053(a) of the Texas Election Code. The named candidates have been certified as unopposed and are hereby declared elected:

(El consejo de la ciudad de Port Lavaca, Texas cancela por este medio la elección programar para ser sostenido el 7 de Mayo de 2022 de acuerdo con la sección 2.053 (a) del código de la elección de Texas. Han certificado como sin oposición y por este medio se declaran a los candidatos nombrados elegidos):

CANDIDATE (CANDIDATO)	OFFICE (OFICINA)	TERM (TÉRMINO)
Jack Whitlow	Council Member, Mayor <i>(Miembro de consejo, Alcalde)</i>	2 years <i>2 años</i>
Rosie Padron	Council Member, District #4 <i>(Miembro de consejo, distrito #4)</i>	3 years <i>3 años</i>
Jim Ward	Council Member, District #5 <i>(Miembro de consejo, distrito #5)</i>	3 years <i>3 años</i>

A copy of this order will be posted on Election Day at each polling place that would have been used in the election.

(Una copia de esta orden será fijada el día de elección en cada lugar de la interrogación que habría sido utilizado en la elección).

Motion made by Councilman District 2 Dent

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

THAT, the General Officers Election including any proposition scheduled to be held on May 07, 2022, is hereby canceled, in accordance with Section 2.053(a) of the Texas Election Code. The named candidates have been certified as unopposed and are hereby duly elected as follows:

Jack Whitlow	Council Member, Mayor	<i>(Miembro de consejo, Alcalde)</i>	2 yrs	2 años
Rosie Padron	Council Member, District #4	<i>(Miembro de consejo, distrito #4)</i>	3 yrs	3 años
Jim Ward	Council Member, District #5	<i>(Miembro de consejo, distrito #5)</i>	3 yrs	3 años

Seconded by Councilman District 1 Smith

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippit, Councilman District 5 Ward, Councilman District 6 Barr

7. Consider appointment/reappointment of member(s) to Recreation and Parks Board to fill a vacancy and/or start a new term. Presenter is Jody Weaver

Interim City Manager Weaver advised Council that Current Recreation and Parks Board Member Melinda (Lindy) Cain's term is expiring soon. She will be transitioning over to the Planning Board. William Mark Howell, Lindy's brother, and resident of District 1, has expressed interest in a full-term appointment with the Parks Board. He is currently a Planning Board Member and will be resigning because the meeting time for the Parks Board better suits his schedule. He is a dedicated resident and would like to continue serving our community as a board member. She said there are no term limits established and the full term is for a period of two (2) years. Staff recommends the appointment of Mark Howell to the Recreation and Parks Board.

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 appoints Mark Howell to the Recreation and Parks Board to serve a new two-year term.

Seconded by Councilman District 6 Barr

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippit, Councilman District 5 Ward, Councilman District 6 Barr

8. Consider appointment/reappointment of member(s) to Planning Board to fill a vacancy and/or start a new term. Presenter is Jody Weaver

Interim City Manager Weaver advised Council that Current Planning Board Member William Mark Howell will be transitioning over to the Recreation and Parks Board. He will be resigning because the meeting time for the Parks Board better suits his schedule. She said Melinda (Lindy) Cain, Mark's sister, has submitted a letter of interest and would like to be appointed to the Planning Board. Essentially, the siblings would be swapping board member positions. They are both very passionate about the future of the City of Port Lavaca and would like to remain active in the improvements of the city.

She said there are no term limits established and the full term is for a period of two (2) years. Staff recommends the appointment of Melinda (Lindy) Cain to the Planning Board to serve a new two-year term.

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 appoints Melinda (Lindy) Cain to the Planning Board to serve a new two-year term.

Seconded by Councilman District 5 Ward

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippit, Councilman District 5 Ward, Councilman District 6 Barr

9. Consider City of Port Lavaca's annual optional Homestead Tax exemption within the Calhoun County Appraisal District for the 2022 tax year. Presenter is Susan Lang

Finance Director Lang advised Council that each year, the governing bodies are asked to review their Optional Homestead, 65 and Over, and Disable Person exemptions for the coming tax year. Calhoun County's Appraisal District has asked that we notify the Appraisal District no later than April 1, 2022, if any changes are to be made for the 2022 tax year.

Local Optional Homestead Exemption

Just as the title says, this exemption is *optional*, and is up to the local jurisdiction to determine (within the guidelines of the State Legislature) the amount of exemption granted. Fiscal Year 2021-22 is the second year for the City to grant this optional exemption on a principal residence at the rate of 10%. Sixty-one percent (61%) of Single-Family residences in the City take advantage of this generous exemption. This exemption affords homeowners, collectively, with \$27,547,535 in reduced value against their property taxes, which amounts to 5% of the City's total taxable property values.

For the average homestead, the reduction amounts to a savings of \$88.50 per year in property taxes. For the City, this exemption reduces the property tax revenue by over \$200,000 each year.

The City has the option to grant the Homestead exemption up to a maximum of 20%, but the minimum exemption cannot be less than \$5,000, if granted. Meaning, if the value of a Homestead is such that the current 10% exemption only grants \$3,500 in exempt value, the exemption, by default, will amount to \$5,000 as a minimum.

Local Optional 65 and Over Exemption

This optional exemption may be increased or decreased with little oversight from the State Legislature. The City currently grants \$10,000 for individuals over 65 as an additional exemption, which matches the required mandatory exemption imposed on school districts. Approximately 25% of the City's single family residential properties receive the exemption, which amounts to a total of almost \$70,000 in reduced property tax revenue to the City each year. The optional 65 and Over exemption reduces the taxable property values by two percent (2%) each year. Individuals receiving this exemption receive a \$79 reduction in property taxes each year.

Staff has provided seven (7) years of trending information for each option for your review, and we hope this information will be useful for this year's decision-making effort.

Motion made by Councilman District 5 Ward

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

THAT, Council hereby approves keeping the same exemptions as in previous year, being a ten percent (10%) optional Homestead Tax Exemption in City of Port Lavaca for the 2022 tax year.

BE IT FURTHER RESOLVED that the Council hereby approves \$10,000 optional 65 and Over Tax Exemption in City of Port Lavaca for the 2022 tax year (the Disabled Veteran Tax Exemptions are State-mandated).

Seconded by Councilman District 6 Barr

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippit, Councilman District 5 Ward, Councilman District 6 Barr

10. Consider Resolution No. R-031422-2 of the City of Port Lavaca appointing a Chief Appraiser to Calculate Taxes for 2022 tax year. Presenter is Susan Lang

Motion made by Councilman District 5 Ward

WHEREAS, the City of Port Lavaca has a tax assessor-collector who assesses and collects taxes for the City of Port Lavaca through an agreement dated November 9, 2015;

AND WHEREAS, according to Section 26.04(c) of the Texas Property Tax Code, it is required to have a certified tax assessor-collector to calculate the tax rates for the City of Port Lavaca;

AND WHEREAS, it is time to have such no-new-revenue tax rate and voter-approval tax rate calculated;

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Port Lavaca to appoint the Chief Appraiser of the Calhoun County Appraisal District or his/her designee, being duly registered and qualified to perform such calculations for the City of Port Lavaca for the 2022 tax roll.

Seconded by Councilman District 3 Tippit

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippit, Councilman District 5 Ward, Councilman District 6 Barr

11. Consider Resolution No. R-031422-3 of the City of Port Lavaca declaring April as Fair Housing Month. Presenter is Susan Lang

Motion made by Councilman District 3 Tippit

WHEREAS Title VIII of the Civil Rights Act of 1968, as amended, prohibits discrimination in housing and declares it a national policy to provide, within constitutional limits, for fair housing in the United States; and

WHEREAS The principle of Fair Housing is not only national law and national policy, but a fundamental human concept and entitlement for all Americans; and

WHEREAS The National Fair Housing Law, during the month of April, provides an opportunity for all Americans to recognize that complete success in the goal of equal housing opportunity can only be accomplished with the help and cooperation of all Americans.

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

THAT, WE, do proclaim April as Fair Housing Month in City of Port Lavaca and do hereby urge all the citizens of this locality to become aware of and support the Fair Housing law.

Seconded by Councilman District 5 Ward

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippit, Councilman District 5 Ward, Councilman District 6 Barr

12. Consider Second and Final Reading of an Ordinance (G-1-22) of the City of Port Lavaca regulating the speed of vehicles in, along, and upon those streets located within the confines of the listed residential subdivisions; establishing the rate of speed in and upon such streets in such subdivisions; prescribing penalties; repealing all ordinances in conflict herewith; 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 an Ordinance (G-1-22) regulating the speed of vehicles in, along, and upon those streets located within the confines of the listed residential subdivisions; establishing the rate of speed in and upon such streets in such subdivisions; prescribing penalties; repealing all ordinances in conflict herewith; and providing an effective date, on this it's second and final reading.

Seconded by Councilman District 3 Tippit

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippit, Councilman District 5 Ward, Councilman District 6 Barr

13. **Consider First Reading of an Ordinance (G-2-22) amending the ordinance codified and described in the City of Port Lavaca Code of Ordinances as Chapter 10 – Animals, Article I – General, Section 10-5 License Required; 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 an Ordinance (G-2-22) amending the ordinance codified and described in the City of Port Lavaca Code of Ordinances as Chapter 10 – Animals, Article I – General, Section 10-5 License Required; and providing an effective date, on this it's first reading.

Seconded by Councilman District 6 Barr

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippit, Councilman District 5 Ward, Councilman District 6 Barr

14. **Consider First Reading of an Ordinance (G-3-22) 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 10 – Animals) 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 an Ordinance (G-3-22) 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 10 – Animals) and providing an effective date, on this it's first reading.

Seconded by Councilman District 6 Barr

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippit, Councilman District 5 Ward, Councilman District 6 Barr

15. Consider purchase of a Remote-Controlled (RC) Mower for the Streets Department. Presenter is Wayne Shaffer

Mayor announced this item would be passed.

No action necessary and none taken.

16. Consider a Professional Services Agreement with LJA Engineering for various projects that will be set forth separate cost proposals or work authorizations. Presenter is Jody Weaver

Interim City Manager Weaver reminded Council that at the January meeting, Council selected LJA Engineering, from 5 respondents to an RFQ, to negotiate a contract for a Downtown Waterfront Master Plan. The Selection committee met on February 7th with representatives of LJA at the Nautical Landings meeting room to review a proposed scope for the study and allow LJA to get a first-hand view of our waterfront assets. Staff provided them additional information regarding recently completed and on-going improvement projects along the waterfront.

LJA Engineering has provided a Professional Services Agreement for Council approval. This is a master agreement where the compensation for assigned projects will be included in a separate proposal or work authorization. The contractual terms of the Agreement have been reviewed and approved by City Attorney Odefey.

Staff recommends approval of the Professional Services Agreement with LJA Engineering.

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 approves a Master Professional Services Agreement with LJA Engineering for various projects that will be set forth in separate cost proposals or work authorizations.

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, Councilman District 5 Ward, Councilman District 6 Barr

17. Consider Proposal No. 22-9338 from LJA Engineering for Planning Services to conduct a Downtown Waterfront Master plan for an estimated fee plus reimbursable expenses of \$50,000. Presenter is Jody Weaver

Interim City Manager Weaver advised Council that LJA Engineering has prepared a Proposal to prepare a Downtown Waterfront Master Plan and is as follows:

Estimated Consultation Fee (Hourly Basis)	\$ 5,000.00
Analysis and Needs Assessment (Flat Fee)	\$ 10,000.00
Concept Plan (Flat Fee)	\$ 8,000.00
Master Plan (Flat Fee)	\$ 25,000.00
Estimated Reimbursements Expenses (Mileage, Printing, Etc.)	\$ 2,000.00
Total Estimated Fees plus Estimated Reimbursement Expenses	<u>\$ 50,000.00</u>

Staff recommends approval of the Planning proposal No. 22-9338 of LJA Engineering for the Downtown Waterfront Master plan.

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 Proposal No. 22-9338 from LJA Engineering for Planning Services to conduct a Downtown Waterfront Master plan for an estimated fee plus reimbursable expenses in the amount of \$50,000.00.

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, Councilman District 5 Ward, Councilman District 6 Barr

18. Consider awarding construction contract to Lester Contracting, Inc. to complete the Voluntary Restoration work at the Harbor of Refuge Tract 16. Presenter is Jody Weaver

Interim City Manager Weaver advised Council that in 2020, RLB Contracting excavated a slip along the shoreline of their leased Tract 16, in order to make repairs to a barge. The excavation was done without the knowledge or consent of the City. A short time after this excavation was performed, the surge from Hurricane Hannah caused erosion of the sides of the excavation and exposed some trash cells. Staff worked with the US Army Corps of Engineers and Texas Commission on Environmental Quality (TCEQ) to permit a voluntary restoration of the disturbed final cover of the old landfill, which staff had contracted with Urban Engineering to prepare.

Staff received approval of city's voluntary restoration plan in May of 2021. RLB agreed to complete the restoration work at no cost to the City, but that work was never completed and the city is working on a settlement agreement with RLB at this time.

The work must be done without delay to avoid issues with TCEQ and/or the US Army Corps of Engineers. The work involves providing 18" of clay soil and 6" of top-soil over an area of about 150' x 95' then graded to drain. A copy of the plans is on file in the office of the City Secretary.

Bids were received from 3 contractors and the bid tabulation is as follows:

Sylva Construction, LLC	\$ 39,900.00
Gonzales Contracting, Inc.	\$ 38,280.00
Lester Contracting, Inc.	\$ 35,892.50

Staff recommendation is to award a construction contract to Lester Contracting, Inc. for this restoration work in the amount of \$35,892.50. Lester Contracting has stated they can begin soon after the contract is awarded.

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 awarding construction contract to Lester Contracting, Inc. to complete the Voluntary Restoration work at the Harbor of Refuge Tract 16 in the amount of \$35,892.50.

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 Tippet, Councilman District 5 Ward, Councilman District 6 Barr

19. Consider award of a construction contract to Lester Contracting for the Brooks Lift Station reconstruction project. Presenter is Jody Weaver

Interim City Manager Weaver advised Council that the January 2020 Urban Engineering Lift Station Assessment Report, the Brooks Lift Station (on Half League Road in City park) is described as in "unsafe/very poor condition" and was recommended for complete reconstruction. In addition, the existing station has a capacity of 0.36 MGD, but sees peaks flows of over 0.5 MGD. Urban Engineering was authorized under Task Order No. 23 to prepare plans and bid documents for this lift station replacement and upgrade. The proposed upgrade will have a total capacity of over 0.8 MGD allowing for future growth. Bids were advertised in the Port Lavaca Wave Newspaper and invitations sent to several plan rooms and the following contractors:

- | | | |
|----------------------------|--------------|----|
| • JTM | Rosenburg | TX |
| • Keystone Construction | Austin) | TX |
| • Lester Contracting, Inc. | Port Lavaca | TX |
| • Matula & Matula | Lake Jackson | TX |
| • Mercer Construction | Edna) | TX |
| • Sepik Construction | Orchard | TX |

Bids were due on February 24, 2022 and only Lester Contracting, Inc. responded with a Bid. Tabulation is as follows:

Total Base Bid	\$ 611,112.00
Total Alternate No. 1	\$ 59,540.00
Total Base Bid + Alternate No. 1	\$ 670,652.00

Financial Impact:

Weaver said that \$500,000.00 was originally budgeted for this lift station replacement. This amount was reduced to \$300,000.00 last year after receiving bids on the Lynnhaven Lift Station and comparing the scopes of the two projects. To date \$32,800.00 has been encumbered for the Brooks Lift Station to pay for the engineering services.

The Base Bid amount is \$611,112.00, which staff recognizes is over twice the budgeted funds. Nearly \$70,000.00 of this is to demolish the existing lift station, which were overlooked when comparing the scope with Lynnhaven. Staff is currently looking at a change order which would reduce this demolition cost by only demolishing the above ground structure and simply backfilling the wet well in place. Other reasons for the higher-than-expected bid are basically a function of the state of our present economy and skyrocketing prices of materials.

This is an improvement project that has been needed to be done for many years and staff does not recommend postponing. Neither does staff realistically expect any reduced pricing if this project were to out for bids again. Several utility contractors were actively solicited to bid, including a few plan rooms and the general response was they were already too busy.

To award the Base Bid project with a cost of \$611,112.00 city needs \$343,912.00 of additional funds. There is about \$457,250.00 in the Utility Construction Account Fund which is set aside for the 12" water line between the two towers. Recall, this project was put on the back burner pending additional study. Staff would like to reassign \$350,000.00 of these funds to the Brooks Lift Station project in order to award this Base Bid now.

Staff recommendation:

Staff recommends that Council award a construction project Lester Contracting, Inc. in the amount of \$611,112.00 for this project. To fully fund the award, staff recommends that \$350,000.00 of funds reserved for the 12" waterline link project be reassigned to this project.

Approved Lester Contracting \$611,112.00 and reassign \$350,000.00 of funds reserved for the 12" Waterline Link Project

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 approves awarding construction contract to Lester Contracting, Inc. for the Brooks Lift Station reconstruction project in the amount of \$611,112.00 for this project.

BE IT ALSO RESOLVED, THAT, \$350,000.00 of funds reserved for the 12" waterline link project be reassigned to this project.

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

Seconded by Councilman District 2 Dent

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippit, Councilman District 5 Ward, Councilman District 6 Barr

20. **Consider Resolution No. R-031422-4 of the City of Port Lavaca suspending the May 2, 2022 effective date of the proposal by CenterPoint Energy Resources Corp., D/B/A CenterPoint Energy Entex and CenterPoint Energy Texas Gas – South Texas Division to Implement Interim Grip Rate Adjustments for Gas Utility Investment in 2021 and requiring delivery of this resolution to the Company and Legal Counsel. Presenter is Anne Marie Odefey**

Motion made by Councilman District 2 Dent

WHEREAS, the City of Port Lavaca, Texas ("City") is a gas utility customer of CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Entex and CenterPoint Energy South Texas Division, ("CenterPoint" or "the Company") and a regulatory authority with an interest in the rates and charges of CenterPoint; and

WHEREAS, CenterPoint made filings with the City and the Railroad Commission of Texas ("Railroad Commission") on March 3, 2022, proposing to implement interim rate adjustments ("GRIP Rate Increases") pursuant to Texas Utilities Code § 104.301 on all customers served by CenterPoint, effective May 2, 2022; and

WHEREAS, it is incumbent upon the City, as a regulatory authority, to examine the GRIP Rate Increases to determine its compliance with the Texas Utilities Code.

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

1. The May 2, 2022, effective date of the GRIP Rate Increases proposed by CenterPoint is hereby suspended for the maximum period allowed by Texas Utilities Code § 104.301(a) to permit adequate time to review the proposed increases, analyze all necessary information, and take appropriate action related to the proposed increases.
2. A copy of this Resolution shall be sent to CenterPoint, care of Keith L. Wall. at 1111 Louisiana Street, CNP Tower 19th Floor, Houston, Texas 77002 and to Thomas Brocato, legal counsel to the City, at Lloyd Gosselink, 816 Congress Ave., Suite 1900, Austin, Texas 78701.

Seconded by Councilman District 6 Barr

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippet, Councilman District 5 Ward, Councilman District 6 Barr

21. **Consider Resolution No. R-031422-5 of the City of Port Lavaca authorizing the Mayor to execute an agreement with KSBR, LLC to administer the Community Development Block Grant Mitigation (CDBG-MIT) Coastal Resiliency Infrastructure Grant Program, Contract #22-087-001-D226, in the amount of \$887,480.00 and declaring an effective date. Presenter is Jody Weaver**

Motion made by Councilman District 1 Smith

WHEREAS, the City is a sub-recipient of Community Development Block Grant Mitigation (CDBG-MIT) Coastal Resiliency Program, receiving funds in the amount of \$13,645,005.00, which will allow the City of Port Lavaca to construct breakwaters/living shorelines and enhance the shorelines by creating marsh habitats, and oyster reefs-fish habitats; and

WHEREAS, funding has been awarded, and this agreement sets forth the terms and conditions for KSBR, LLC to provide grant administration for completion of projects approved for mitigation funding.

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 Administration Services agreement with KSBR, LLC to provide grant administration services for the Community Development Block Grant Mitigation (CDBG- MIT) Coastal Resiliency Program, Contract No. 20-087-001-D226, in the amount of \$887,480.00, 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, Councilman District 5 Ward, Councilman District 6 Barr

22. Consider recommendation of the Planning Board for approval of a conceptual Daycare to be located at 511 S. Virginia Street. Presenter is Jody Weaver

Interim City Manager Weaver advised Council that the applicant, Kimberly Riley, has owned and operated Ladybug Preschool for 14.5 years in Port Lavaca. This current daycare is located at 515 N. Virginia Street, and Kimberly is proposing to relocate to be an in-home daycare provider to be located at 511 S. Virginia Street. The applicant intends to keep her current hours of operation which are from 7:00 a.m. to 5:30 p.m. The intent is to have a smaller in-home daycare with approximately seventeen (17) children instead of her commercial/retail space as her daycare in the retail/commercial corridor of Virginia. Her proposed new location is a single-family residential home. The home does have a long driveway to accommodate the drop-off and pick-up of the children in her care. She will schedule the drop-offs and pick-ups with the parents to not fill the driveway space. The applicant is an experienced licensed childcare provider with a positive long-standing history as a business owner in childcare services in Port Lavaca. Her business is an in-demand service for Port Lavaca families.

The applicant is currently state, and county licensed at her existing daycare. She will continue to maintain compliance with all state and local licensing criteria.

The Planning Board recommends approval of this request and staff concurs.

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 the request of applicant, Kimberly Riley, for a conceptual Daycare to be located at 511 S. Virginia Street in Port Lavaca

Seconded by Councilman District 6 Barr

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippit, Councilman District 5 Ward, Councilman District 6 Barr

23. 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 this item would be passed.

No action necessary and none taken.

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

There was 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, Councilman District 5 Ward, Councilman District 6 Barr

Meeting adjourned at 7:39 p.m.

These minutes were approved on April 11, 2022.

Jack Whitlow, Mayor

ATTEST:

Mandy Grant, City Secretary