



REGULAR PORT COMMISSION MEETING

Tuesday, September 20, 2022 at 10:00 AM
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 20th day of September 2022, the Port Commission of the City of Port Lavaca, Texas, convened in regular session at 10:00 a.m. in the regular meeting place in City Council Chambers at City Hall, 202 North Virginia Street, Port Lavaca, Texas, with the following Commissioners in attendance:

ROLL CALL:

David Roberts	Commissioner / Secretary
Mike McGuire	Commissioner
Sue Traylor*	Commissioner
Michael Kovarek	Commissioner
Jamie O'Neil	Commissioner
Larry Nichols	Commissioner

And with the following Chairman / Commissioner absent:
Alex Davila Chariman

*Traylor arrived 10:08 a.m. during agenda #3.

CALL TO ORDER:

Commissioner Roberts called the meeting to order and presided at 10:00 a.m.

CONSENT AGENDA

1. **APPROVAL OF MINUTES**
 - a) **MINUTES OF AUGUST 16, 2022 - REGULAR MEETING**

Motion made by Commissioner McGuire

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

THAT, the minutes of the Port Commission regular meeting held on September 20, 2022, are hereby approved.

Seconded by Commissioner Kovarek.

Motion passed by the following vote:

Voting Aye:

David Roberts, Mike McGuire, Larry Nichols, Michael Kovarek and Jamie O'Neil.

Voting Nay: None

2. RECEIVE HARBOR MASTER'S INSPECTION / MAINTENANCE REPORT.

- A copy of these reports, in their entirety, can be found in the Port Commission's meeting packet dated September 20, 2022.

Motion made by Commissioner McGuire

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

THAT, the Harbor Master's Inspection Report of the Port Commission regular meeting held on September 20, 2022, are hereby approved.

Seconded by Commissioner Kovarek.

Motion passed by the following vote:

Voting Aye:

David Roberts, Mike McGuire, Larry Nichols, Michael Kovarek and Jamie O'Neil.

Voting Nay: None

REPORTS

3. RECEIVE FINANCIAL REPORTS OF PORT REVENUE FUND

- a) Tariff Report
- b) Account Aging Report
- c) Payment Report
- d) Revenue and Expenditure Report
- e) Balance Sheet
- f) Profit and Loss Cash Flow Report

- A copy of these reports, in their entirety, can be found in the Port Commission's meeting packet dated September 20, 2022.

ACTION ITEMS: RECEIVE STATUS REPORTS**4. ACTION ITEMS: RECEIVE STATUS REPORTS****a) Renovations to Nautical Landing Marina Breakwater - Presenter Jody Weaver**

We are getting closer to getting the go ahead to bid this project. This past Monday, TPWL contacted us to assure us that the project is moving through their process. They acknowledged that we are a "unique case" where they are going to have to move through the steps differently than normal, but it is moving. Unfortunately, they have not been able to provide me a timeline other than they are working on it.

As a reminder, the plans and specs are complete and were submitted to TPWL well over a year ago. Clearly, we may need to have Matt update his submittal to TPWL once they say they are ready to receive it.

b) CDBG-MIT Coastal Resilience Project / Restore Project – Presenter Jody Weaver

I have attached a copy of a Progress Report Update from Mott McDonald dated 9/2/2022. We heard from TCEQ on 9/12 that they are expecting award of the funds within a few days and will be sending out a draft contract soon. Susan had a meeting with TCEQ regarding procurement processes and is working to get requested information submitted to them soon.

c) Task staff to prepare study report on RLB Lease - Presenter Alex Davila**5. ACTION ITEM - RECEIVE STATUS REPORTS ON SPECIAL PROJECTS****a) Status report regarding TCEQ inspection in June 2022 of Tract 17 and 17A
- Presenter Jody Weaver**

We have not received a response from TCEQ since our submittal on June 7, 2022, in response to their records request. Due to the amount of rain, we've had, Urban Surveying has not had a chance to perform a topographic survey of the area of concern in Tract 17A. Axis Demolition is scheduled to remove and dispose of the wood mats, plastic, and metal debris next week, weather permitting.

Because of the opportunity to use CDBG-MIT funds for a project to stabilize the shoreline where these trash cells have been exposed due to erosion, Mott McDonald is already the selected engineer for our CDBG-MIT projects. Once this funding is certain, I will get a proposal from them to prepare a design, cost estimates and bid documents for this project.

b) CRG Limited Phase II Environmental Site Assessment of Harbor of Refuge Tracts 16, 17, and 17A - Presenter Jody Weaver

We received the attached Request for a Drinking Water Survey from TCEQ on August 29, requesting an immediate written response to commit to compliance. I drafted the attached letter and sent it on August 31.

I have contracted with CRG Environmental to prepare the Drinking Water Survey and submit on or before the due date of September 28, 2022. John Hogue with CRG sent me a draft copy of the submittal today for review and so it will be submitted prior to September 28. We wait for a response from TCEQ.

**c) Discuss grant opportunities: CDBG-MIT and Matagorda Bay Mitigation Trust –
Presenter Jody Weaver**

(A) You may recall that in 2021 we had made application for CDBG-Mitigation dollars to fund drainage improvements and shoreline protection for the Corporation Ditch. We lost that competition for funding by one point in scoring. We were told that there would be a second "bucket" of funds available this fall.

Attached is a letter from the Golden Crescent Regional Planning Commission explaining about the proposed allocation of over \$80M to the GCRPC region. We are slated to receive \$8.33M, but the allocation will not be final until after the public comment period which ends on October 14.

There is a public hearing at the Bauer Community Center Monday night, September 19 at 6 pm. For more information you can go to www.gcrpc.org

I will be in attendance to obviously support the proposed allocation. Tentatively we would look to utilize these grant funds for 1) Drainage improvements to the Corporation Ditch drainage basin (we already have Mott McDonald performing a drainage study to identify projects to improve drainage) and 2) shoreline protection at the Harbor of Refuge where the trash cells are exposed.

- (B) The Matagorda Bay Mitigation Trust has issued a call for proposals due on October 17, 2022. I am working on a proposal for funding to help with the Harbor of Refuge shoreline protection projects plus a second proposal to construct an extension to the bulkhead/sidewalk at Scully's to begin the walkway ultimately to the Veterans Memorial, provide access to the beach area there for kayaking and parking improvements with the overall purpose of providing improved public access to the shoreline

6. ACTION ITEM - RECEIVE HARBOR MASTER'S OPERATIONS, PROMOTION/DEVELOPMENT ACTIVITY REPORT

a) City Harbor

- August 1, 2022, Contractor found the problem with the handrail at the upper dock should be on sight August 15, 2022, to make the necessary repairs.

b) Nautical Landings Building

- Testengeer is working on engineering a scope of work for the electrical upgrades to go out for bids.

c) Nautical Landings Marina

- Matt Estes City Attorney awaiting probate.
- Abandon boat - In process of auctioning boat.
- Horizon Environmental has been onsite 17 times since last PC meeting.

d) Smith Harbor

- Dredge spoils waiting for it to dry out before shaping up piles.

e) Harbor of Refuge

- Axis Demolition should be on sight the week of the September 19th to start the clean up & disposal of the debris.

ACTION ITEMS: RECEIVE REPORTS AND DISCUSS STATUS OF LEASES

7. DISCUSS NEW LEASE FOR EDWARD JONES & CO., EFFECTIVE SEPTEMBER 1, 2022.

At the Regular Council meeting on September 12, City Council considered the recommendation of the Port Commission in regard to a new lease agreement with Edward Jones. As you recall, I emailed to all Port Commissioners, a copy of the memo that was presented to Council in their packet. I have copied that below for your quick reference.

After discussing the nearly 20-year positive relationship with Edward Jones, the security of having a guaranteed known revenue source for 5 years, and the City Attorney's approval of the document language and format, Council took the following action:

Approved a 5-year lease as presented (no option for renewal) with a starting Year 1 rent of \$1,092.00 + \$135.00 in utilities, with the rent amount increasing by **4%** in each of years 2 through 5. The utilities charges are subject to increase with the increase to the Kw/hr that the city pays for electricity or with an increase to the base water and/or sewer rates.

8. DISCUSS LEASE OF TRACT 3, 11 AND 12 AT HARBOR OF REFUGE.

Status of current leaseholders:

Due to nonpayment of the agreed upon amount per the settlement agreement, written notice was provided to the leaseholders on September 7, providing 10 days to cure this payment default.

The settlement agreement states, "Should the Debtors fail to cure such payment default by the cure deadline, the automatic stay shall terminate as to the Property and the City shall be immediately authorized to pursue its state law and contractual rights to the Property including eviction proceedings".

The deadline for payment is Saturday, September 17. We have in fact THIS FRIDAY AFTERNOON received payment of the post petition amount owed through August 31st. As of 4:20 pm we have not received the payment for September's rent which is also due. If an EFT does not show up for September's rent in the bank by Monday morning, we will place our own locks on the property Monday and consult with Casey Cullen to begin eviction proceedings.

If we do receive the September month's payment, the next payment due date is October 1. If payment is not received then, we will submit notice on Monday, October 3 which will provide another deadline of October 13.

Encore has expressed interest in leasing Tract 3 once we regain possession of the property. There is no requirement to readvertise for proposals, if the Port Commission would prefer to negotiate a lease with Encore, in consideration of the proposal they submitted last year. They have informed us that they have purchased much of the equipment that is presently stored on the Tract 3 dock. I have already mentioned to them that the minimum rent amount will be greater than what it was in January of 2022.

We have had not had any interest in a lease of Tract 11 or 12.

Motion made by Commissioner McGuire

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

THAT, tracks 3, 11, and 12 at the Harbor of Refuge have a set bid in the amount of Four Thousand dollars (\$4000.00) minimum and combine the properties.

Motion died due to lack of a second.

Motion made by Commissioner Nichols

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

THAT, in accordance with recommendation of staff, Port Commission hereby authorizes Jody Weaver, Interim City Manager to discuss with Encore and update the Commissioners at the next Regular Port Commission meeting of their proposal.

Seconded by Commissioner Traylor.

Motion passed by the following vote:

Voting Aye:

David Roberts, Sue Traylor, Larry Nichols, Michael Kovarek and Jamie O'Neil.

Voting Nay: Mike McGuire

9. DISCUSS LEASE OF TRACT 9, 9A AND 10 AT CITY HARBOR.

Reference the attached Site Plan of Tracts 9, 9A, and 10.

I checked with the Fire Chief and we need to provide a 20 ft wide access easement for fire access across Tract 9 for tract 10.

With direction on a minimum rent amount and a minimum/maximum acceptable number of years for the lease for Tracts 9 and 9A, we can begin advertising for proposals for these tracts on September 28 with proposals due on October 13 prior to the next Port Commission meeting. Alternatively, we can negotiate with the company that has approached Jim a few times recently about leasing this Tract. There is no requirement to advertise for tenant for these leases. The Port Commission has done that on occasion in the past in order to establish a market rate.

Prestige Oysters is currently leasing 330 linear feet of Tract 10. Their lease expires on February 28, 2024. A recent review of their lease revealed that the lease payments were not increased per the MCI in March of 2021 or March of 2022. We are in the process of working with Prestige to get that rectified and up to date.

Below are some photos taken of the south end of Tract 10 on September 16. Jim is going to get with Prestige to have them get their leased area mowed.

Commissioner Roberts announced this agenda item will be tabled until next Regular Port Commission Meeting – October 18, 2022.

Agenda Item Discussed.

No Action Taken.

10. DISCUSS LEASE FOR PORT LAVACA PLUMBING SUITE 1D.

Port Lavaca Plumbing has notified us that they would like to continue to rent Suite 1D, however the notification did not come in time to consider an extension to the existing lease. Therefor we are looking at a new lease agreement with Port Lavaca Plumbing for the Suite. The terms on their current lease is \$450.00/month.

We are suggesting a new monthly rent rate of \$481.50 (7% increase) with the option of 1 additional year with an increase per the MCI (with or without a minimum or maximum). Rick Lewis has agreed to this.

Note: last year we had not included the square footage of the closet in the calculations which is why the per sf cost appeared so much higher than the others. Port Lavaca Plumbing is using all of this closet for storage, so I have included it in the calculation.

Attached is a comparison of rental rates at this time and proposed.

This \$481.50 is broken down as follows: square footage = 205 sf for Suite + 63 sf for closet = 268 sf total used space. (\$356.50 + \$100.00 electric + \$25.00 breakroom/restroom = \$481.50

Motion made by Commissioner McGuire

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

THAT, in accordance with recommendation by staff, Port Commission hereby request to recommend to City Council to accept the lease proposal for Port Lavaca Plumbing.

Seconded by Commissioner Nichols.

Motion passed by the following vote:

Voting Aye:

David Roberts, Sue Traylor, Larry Nichols, Michael Kovarek and Jamie O'Neil.

11. DISCUSS LEASE FOR BAY LIMITED SUITE 5.

Bay Ltd. did not notify us in time to exercise the one-year option available in their lease but has expressed interest in a new one-year lease and might consider a one-year option if available.

The MCI for August will probably be out sometime around the 25th of the month. The July MCI was at 9.98%, down from a peak of 12.51% in April and 12.24% in June. I'm guessing it will drop again, but to what we'll have to wait.

I was planning to wait and see what the published MCI is and start negotiations with that percentage. Regardless of the published MCI, the starting rent needs to be greater than the 5% that would have been used if the one-year option was available. The current lease expires on October 31.

COMMENTS

12. COMMENTS FROM THE COMMISSIONERS.

No Comments

ADJOURNMENT

Commissioner Nichols made a motion to adjourn the meeting.

Commissioner McGuire seconded this motion.

Motion passed by the following vote:

Voting Aye:

David Roberts, Mike McGuire, Sue Traylor, Larry Nichols, Michael Kovarek and Jamie O'Neil.

Voting Nay: None

Meeting adjourned at 11:15 a.m.

These minutes were approved on October 18, 2022.

ATTEST:

Alex Davila, Chairman

Rachel Garza, Admin. Assistant