



# REGULAR PORT COMMISSION MEETING

Tuesday, August 16, 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 16<sup>th</sup> day of August 2022, the Port Commission of the City of Port Lavaca, Texas, convened in regular session at 10:02 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:

Alex Davila	Chairman
David Roberts	Commissioner
Mike McGuire	Commissioner
Sue Traylor	Commissioner
Jamie O'Neil	Commissioner
Larry Nichols	Commissioner

And with the following Commissioner(s) absent:

Michael Kovarek	Commissioner
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### CALL TO ORDER:

Chairman Davila called the meeting to order and presided at 10:02 a.m.

### CONSENT AGENDA

#### 1. APPROVAL OF MINUTES

a) MINUTES OF JULY 19, 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 August 16, 2022, are hereby approved.

Seconded by Commissioner Roberts.

Motion passed by the following vote:

Voting Aye:

Alex Davila, David Roberts, Mike McGuire, Sue Traylor, Larry Nichols, 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 August 16, 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 August 16, 2022, are hereby approved.

Seconded by Commissioner Roberts.

Motion passed by the following vote:

Voting Aye:

Alex Davila, David Roberts, Mike McGuire, Sue Traylor, Larry Nichols, 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 August 16, 2022.

**ACTION ITEMS: RECEIVE STATUS REPORTS****4. ACTION ITEMS: RECEIVE STATUS REPORTS**

- a) Renovations to Nautical Landing Marina Breakwater - Presenter Jody Weaver**
- TPWL are waiting on a response from Fish and Wildlife Services, project has been submitted last month.
- b) CDBG-MIT Coastal Resilience Project / Restore Grant - Presenter Jody Weaver**
- Monthly Progress Report was submitted to Commissioners.

A copy of this reports, in its entirety, can be found in the Port Commission's meeting packet dated August 16, 2022.

**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. Since that time all the totes, drums, barrels, and open top oil containment/containers that were left on site by the previous tenant have been removed by Encore. We recently advertised for bids to remove and dispose of the remaining piles of wood mats, plastic, and metal debris. At the last Council meeting, Council rejected these bids with instruction to staff to find a more economical way. We have a price from Axis Demolition to remove and dispose of this debris at a substantial savings than the bids previously received. This cleanup is scheduled for mid-September. To begin addressing the municipal solid waste exposed along the bank from the old landfill, I will be advertising for Qualifications from Engineering firms in the very near future to prepare a preliminary design and assist in grant applications for funding. This includes applying to the Matagorda Bay Mitigation Foundation in their 2022-23 Project funding cycle.

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

- John Hogue with CRG Environmental received this email on Thursday, August 11, 2022, regarding the status of the review of the Limited Phase II ESA.

Good afternoon Mr. Hogue,

I am currently in the process of reviewing the report as we speak. I do apologize for the delay in reviewing the report. I was out of the office for a good portion of July due to some health complications. Once I am finished with my review, my correspondence letter will have to go through a peer review process prior to being submitted. If I have any questions or concerns, I will be sure to reach out to you.

Thank you for your time,  
Garrett Thering, Project Manager  
Team 1, VCP-CA Section  
Texas Commission on Environmental Quality

**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**

- Brown & Root has submitted a bid to make electrical upgrades and wood repairs to building.

**c) Nautical Landings Marina**

- Matt Estes - City Attorney awaiting probate.
- Abandon boat found owner. In process of auctioning boat.
- Horizon Environmental has been onsite 16 times since last PC meeting

**d) Smith Harbor**

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

**e) Harbor of Refuge**

- Received two bids for the debris cleanup Council rejected bids and advised staff to find a cheaper alternative.

**ACTION ITEMS: RECEIVE REPORTS AND DISCUSS STATUS OF LEASES****7. DISCUSS PROPOSED NEW LEASE FOR EDWARD JONES & CO.**

- Edward Jones has leased Suite 3 from the City since September 1, 2003. As such they have been a long-time steady tenant and have always to my knowledge paid their rent on time without issue. The original 2003 lease was for 5 years with a 5-year option and there have been 5 amendments that extended the lease until it's current expiration date of August 31, 2022.
- The lease amount they contracted for in 2003 was \$765.00/month. The MCI in September 2003 was 166.8. The MCI in June 2022 (last date published) was 312.09, or an increase of 187%. So, \$765.00 in today's dollars per the MCI is \$1,431.35. Edward Jones is currently paying a total of \$1,150.00/month.
- Staff's recommendation as outlined in the attached information is to increase the overall lease amount to \$1,220.00/month. This would equate to an increase since 2003 of 159% or about an MCI of 266 which is what it was around March of 2021. Interestingly, this also is about the increase since 2003 using the Consumer Price Index (CPI) which would be a 161% increase. This \$1,220.00 per month is an increase of 6% over their current rate of \$1,150.00, in keeping with Council's wish to keep increases from being "too high" in any one year.
- Edward Jones is requesting a 5-year lease with fixed 3.5% increase each year. This would certainly simplify staff's workload for this lease over the next 5-years.

Communication with Edward Jones this year has been sporadic, but based upon my conversations two years ago, they seem to want a fixed increase and not the uncertainty of the MCI. If the Port Commission is uncomfortable getting locked into a 3.5% annual increase, perhaps we offer a 2-year lease with a 5% increase for year 2 and see where the market is for year 3 if they are still interested in the lease.

- The proposed lease agreement document is based upon Edward Jones' standard agreement with some edits on our part. Anne Marie has reviewed this and is prepared to recommend to Council that the language is satisfactory. I have put in red some provisions that differ from Edward Jones' standard and/or are things that will need further discussion from the Port Commission. Although again communication has been spotty, it is my understanding that because of the corporate nature of this tenant, it is very difficult to use anything other than their standard document (although we have made some edits to it). If the Port Commission/Council requires that only the City's standard lease document be used, then I suggest that a one-year amendment to the existing lease be entered into, and we provide them written notice of this fact so they have a year to find a new location. (Note: the language of the original contract states that in the event that the Lessee should holdover or be permitted to holdover, the lessee shall be deemed a tenant wholly at will of the City).
- The Early Termination clause is included but provides for a Four (4) month rent liquated Damages payment. This matches what is included in the original 2003 lease.
- The scheduled payment for water/sewer and electrical is subject to increase with changes to the KW/hr cost and the Base Water and/or Sewer Rate.
- Lessee is responsible for payment of any ad valorem taxes assessed on the leased property if any.
- 2 parking spaces are provided in the front and 2 in the back.

Motion made by Commissioner Nichols

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

THAT, Chairman Davila, makes recommendation to recommend to city council a new lease agreement for Edward Jones & Co with the following terms:

- 7% increment each year
- City Lease Agreement
- 2-year lease

Seconded by Commissioner Traylor.

Motion passed by the following vote:

Voting Aye:

Alex Davila, David Roberts, Mike McGuire, Sue Traylor, Larry Nichols, and Jamie O'Neil.

Voting Nay: None

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

- We executed an Agreed Order Conditioning Automatic Stay regarding Tracts 3, 11, and 12 at the Harbor of Refuge.

On or before August 31, we shall receive payment of all rent and dock charges owed for the post-petition period of December 9 through August 31, not included late fees. This amount is \$47,854.43. As of September 1, the rent increases by 5% and they will pay \$5,789.52/month (including dock fees) until surrender of the property or further order of the court.

If there is a default on this agreement, they will have 10 days to cure. If they do not cure, then the automatic stay shall terminate, and we can begin eviction proceedings.

It is my understanding that it is anticipated that the property will be surrendered in October or November.

I propose that we prepare to advertise for bids for these tracts in December or as soon as practical after the tracts are surrendered.

I will be looking for the Port Commission to set a minimum bid amount for these tracts. This will be voted on at a later meeting.

Last year the minimum amounts were \$2,800 for Tract 3 and \$1,760.00/month for Tract 11 (which was the combination of former 11 and 12)

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

- Reference the attached Site Plan of Tracts 9, 9A, and 10.  
First, does the Port Commission agree to the proposed boundaries of tract 9A and that it is to be offered as a lease separately from Tract 9 as a potential fueling station?  
Second, we need to establish minimum bid amounts for the tracts we are advertising. For comparison, Millers Seafood's current lease was effective 8/1/2021 and he is paying \$3.13/linear foot of dock.  
Using this \$3.13/LF, Tract 9 would be \$1,345.00.  
The current month to month lease of tract 10 is \$2.11/linear foot.  
I don't have any reference right now to base a proposed minimum rental rate for a fueling station at Tract 9A on.

**10. COMMENTS FROM COMMISSIONERS**

No comments.

**ADJOURNMENT**

Commissioner Roberts made a motion to adjourn the meeting.

Commissioner Nichols seconded this motion.

Motion passed by the following vote:

Voting Aye:

Alex Davila, David Roberts, Mike McGuire, Larry Nichols, Sue Traylor and Jamie O'Neil.

Voting Nay: None

Meeting adjourned at 11:22 a.m.

These minutes were approved on September 20, 2022.

ATTEST:

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Alex Davila, Chairman

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Rachel Garza, Admin. Assistant