



# CITY COUNCIL REGULAR MEETING

Monday, October 11, 2021 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 11<sup>th</sup> day of October, 2021, 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
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

*\*7:24 p.m. Allen Tippit exited meeting due to emergency during consideration of Agenda #5 SAWS Resolution No. R-101121-2.*

And with the following absent:

Jerry Smith	Councilman, District 1
-------------	------------------------

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 6:37 p.m. and presided.

### III. INVOCATION

- Former Councilman Felder gave the invocation.

### IV. PLEDGE OF ALLEGIANCE

- Mayor Whitlow – Pledge of Allegiance.

**V. PRESENTATION(S)**

- Proclamations by the Mayor
  - October 2021 is National Fire Prevention Month with the theme “Learn the Sounds of Fire Safety” effectively serves to remind citizens it is important to learn the different sounds of smoke and carbo monoxide alarms.

**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:
  - Mr. Michael Clay of 1116 S. Virginia Street, Port Lavaca, Texas commented on conditions of Drainage and Manholes on the South Side of the city and requested Council draw up a plan to address these issues.

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

- A. Proclamation by the Mayor - October 2021 is National Fire Prevention Month with the theme “Learn the Sounds of Fire Safety” effectively serves to remind citizens it is important to learn the different sounds of smoke and carbo monoxide alarms**
- B. Minutes of September 13, 2021 Regular Meeting (Cancelled-Tropical Storm Nicholas)**
- C. Minutes of September 20, 2021 Special Meeting**
- D. Minutes of September 27, 2021 Special Meeting and Workshop Session**
- E. Payment of Invoices Exceeding \$1,500**
- F. Receive monthly Financial Highlight Report**

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 5 Ward

Voting Yea:

Councilman District 2 Dent, Councilman District 3 Tippet, 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. **Consider request of Our Lady of the Gulf Catholic Church for a parade permit and traffic control assistance for the “Christ the King” procession parade on Sunday, November 21, 2021 beginning at 5:00 p.m. and waiver of any fees associated with the event. Presenter is Colin Rangnow**

Police Chief Rangnow advised Council that Our Lady of the Gulf Catholic Church (OLG) has requested to host a walking procession, for the “Marian Rosary”, on Sunday, October 10, 2020 beginning at 5:00 p.m., assistance with traffic control and to also waive all fees associated with this event. He said they have the route and will assist with the event.

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 the recommendation of staff, Council hereby approves the request of Our Lady of the Gulf Catholic Church (OLG) to host a walking procession, for the “Marian Rosary”, on Sunday, October 10, 2020 beginning at 5:00 p.m., assistance with traffic control and waive all fees associated with this event.

Seconded by Councilman District 6 Barr

Voting Yea:

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

2. **Consider request of Parkway Church (Port Lavaca Campus) for the use of the Bayfront Peninsula Park from 4:00 p.m. to 6:00 p.m. on Sunday, October 31, 2021 for a community event with additional request to waive any fees associated with this event. Presenter is Tania French**

Tania French advised Council that Parkway Church (Port Lavaca Campus) would like use of the Bayfront Peninsula Park from 4:00 p.m. to 6:00 p.m. on Sunday, October 31, 2021 for a community event with additional request to waive any fees associated with this event.

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 the recommendation of staff, Council hereby approves the request of Parkway Church (Port Lavaca Campus) the use of the Bayfront Peninsula Park from 4:00 p.m. to 6:00 p.m. on Sunday, October 31, 2021 for a community event and also waives any fees associated with this event

Seconded by Councilman District 2 Dent

Voting Yea:

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

3. **Consider appointment/reappointment of two (2) members to the Recreation and Parks Board for new two-year terms commencing in October 2021. Presenter is Jody Weaver**

Jody Weaver, Interim City Manager advised Council that the Recreation and Parks Board has two (2) terms that have expired for Mac Sistrunk and Olga Szela. Both members have requested to be reappointed to the Recreation and Parks Board. There are no term limits established and the full term is for a period of two (2) years..

Motion made by Councilman District 2 Dent

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

THAT, Council hereby reappoints Mac Sistrunk and Olga Szela to serve on the Recreation and Parks Board for each to start a new term of two (2) years commencing in October 2021.

Seconded by Councilwoman District 4 (Mayor Pro Tem) Padron

Voting Yea:

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

4. **Consider Resolution No. 101121-1 to nominate candidates for the Board of Directors of the Calhoun County Appraisal District for a two-year term commencing January 1, 2022 and ending on December 31, 2023. Presenter is Jody Weaver**

Motion made by Councilman District 2 Dent

WHEREAS, this is selection year for the Board of Directors of the Calhoun County Appraisal District; and

WHEREAS, the Board of Directors consists of five members who serve two-year terms, beginning January 1, 2022 through December 31, 2023; and

WHEREAS, the City of Port Lavaca, Texas is a taxing unit entitled to nominate candidates to the Calhoun County Appraisal District, if so desired.

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

THAT, Council hereby approves to nominate no candidates to Calhoun County Appraisal District for election to the Board of Directors of the Calhoun County Appraisal District Board of Directors.

Seconded by Councilman District 6 Barr

Voting Yea:

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

5. **Consider Resolution No. 101121-2 in connection with the San Antonio Water System's (SAWS) Bed and Banks Application No.13098. Presenter is Jody Weaver**

Motion made by Councilman District 2 Dent

A resolution opposing the SAWS Bed & Banks Application 13098, calling for a contested case hearing regarding said application, requesting party status and authorizing Special Counsel to take all actions necessary to protect the interests of the City of Port Lavaca (City) and their citizens in this matter.

The City believes that it is important to have a healthy San Antonio Bay, however the San Antonio Water Systems' (SAWS) bed and banks application, filed on December 30, 2013 with the Texas Commission on Environmental Quality (TCEQ) will in reality make environmental flows less secure than at present and render our local economy and the San Antonio Bay defenseless during periods of drought.

The City recognizes that there is no legal basis for SAWS to claim ownership for any purpose to wastewater discharged from a wastewater treatment plants (WWTP). All surface water, that is all water that reaches the bed & banks of a waterbody, is real property of the State of Texas. It makes no difference when or how water reaches the river, whether it comes from rainfall, surface runoff, a sewer system, or groundwater springs. In every such case, water belongs to the state, as do the bed and banks of navigable streams.

Texas state never sells its water, rather it allows individuals and others to use its water in a manner that financially or otherwise benefits the state and does no harm to others. TCEQ manages state owned water on behalf of the state. TCEQ regulates historic water rights based on estimates of availability at a particular location, including estimates of the amount of water diverted and the amount thereof that will naturally return to the river.

SAWS falsely claims the right to dedicate 50,000 ac./ft to San Antonio Bay, allegedly to preserve instream flows in the river and the bay during periods of drought. Not true. The SAWS application will not benefit the environment as it adds no new source of water to what is already available to San Antonio Bay. The application will however subordinate the water rights of everyone downstream of San Antonio, and some of those water rights have been in use for over 100 years.

Water is used and reused many times from Kendall County down to Calhoun County along the Guadalupe and San Antonio River Basins. What SAWS is doing is in effect to cancel the senior water rights from Gonzales to Calhoun Counties to San Antonio Bay.

Almost all the water in the Guadalupe River has its origin in the Edwards Aquifer, and much, if not most, of that water passes through the City of San Antonio at some point.

SAWS has revived this application in a manner that allows them to claim title to all water discharged from its wastewater facilities. SAWS takes this step to offset inordinate expenses now coming due for water derived from their Vista Ridge Project. This application is an assault on traditional concepts of water law that have served the State well since its inception, and the City faces serious potential of harm if this application is allowed to go forward.

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

The City now authorizes Special Counsel to take all actions necessary to protect the interests of the City of Port Lavaca (City) and their citizens in regard to SAWS Bed & Banks Application 13098, including the call for a contested case hearing, securing party status and representation at said hearing.

Seconded by Councilman District 5 Ward

Voting Yea:

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

Absent:

Councilman District 1 Smith

Councilman District 3 Tippit

6. **Consider award of the construction bid for the Re-Roof of the Police Department Project.**  
**Presenter is Jody Weaver**

Interim City Manager reminded Council that the city has \$200,000.00 in the 2021-2022 fiscal year budget to reroof the Police Station. Staff recently advertised for competitive proposals and received two (2): Rain King and Rain Seal Master, both from Victoria.

Rain King submitted a proposal for \$197,400.00 and 90 days; fully complied with all bidding instructions.

Rain Seal Master submitted a proposal for \$198,500.00 and 60 days; did not submit Qualifications 5 days in advance.

The selection committee comprised of myself, Colin Rangnow, Susan Lang, Tim Dent and William Berger and Brian Parker of Rawley McCoy and Associates (RMA), PLLC.

The average scores from the committee are as follows:

	Maximum Points	Rain King	Rain Seal Master
Price of Proposal	50	50	49.6
Qualifications	25	25	15
Calendar Days	25	18	25
Total	100	93	89.5

The Selection Committee recommends awarding the contract to Rain King in the amount of \$197,400.00.

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 bid for the “Re-Roof of the Police Department” Project to the low bidder, Rain King, in the amount of \$197,750.00 with 90 days to complete after receipt of Notice to Proceed.

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

7. **Consider recommendation of the Port Commission to give written notice to T.W. LaQuay Marine, LLC that the City will terminate their lease of Tracts 3, 11 and 12 at the Harbor of Refuge at the end of the current lease term of December 31, 2021. Presenter is Jody Weaver**

Interim City Manager Weaver advised Council that Linda LaQuay of T.W. LaQuay Marine, LLC entered into two leases at the Harbor of Refuge on January 1, 2019. One lease was for Tract 3 and the other was for Tracts 11 and 12. Both leases have a term of 3 years and expire on December 31, 2021. Both leases contain the following language:

“ Tenant shall have the right with ninety (90) days advance written notice to City to exercise one two (2) year option to extend this lease until December 30, 2023. City shall have the right with sixty (60) days advance written notice to tenant to terminate lease at the end of the current lease term. “

The Port Commission is recommending that Council provide written notice to Linda LaQuay that these leases will be terminated at the end of the current lease term, being December 31, 2021, in accordance with and as provided for in the executed lease documents.

With a letter dated October 12, 2021, this provides 80 days for Ms. LaQuay to fully vacate the property, being greater than the minimum required 60 days.

Further, the Port Commission has authorized staff to prepare a bid package to offer these tracts of land for a new lease beginning on January 1, 2022, with a required minimum bid being the amount of the current rent rate. This bidding will establish the rental market rate for the tracts.

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 the recommendation of Port Commission and staff, Council hereby authorize the City Manager to provide written notification to Linda LaQuay of T.W. LaQuay Marine, LLC. that the current leases of Tract 3 and Tracts 11 and 12 will be terminated at the end of the current lease term being December 31, 2021, in accordance with and as provided for in the executed lease documents.

Seconded by Councilman District 6 Barr

Voting Yea:

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

8. **Consider recommendation of the Port Commission to award the bid to replace nine (9) exterior doors at Nautical Landings Marina to Barefoot Construction. Presenter is Jody Weaver**

Harbor Master Rudellat advised Council that the Port Commission has a total of \$80,000.00 budgeted for a Facelift to the Nautical Landings Building and to replace some exterior doors. He said \$4,935.00 has been spent to date to contract with Mark Barefoot to replace one door to get a better picture of the construction involved to replace these doors.

Harbor Master ordered three (3) doors and accompanying windows like the one Barefoot replaced for a cost of \$4,191.00. These doors were special ordered and there was an excessive lead time of twelve (12) plus weeks for delivery.

There was an additional cost of \$4,335.00 for restoration of metal awing window frames, leaving the remaining balance budget of \$66,359.00.

Staff asked Victor Fredericksen, P.E. to write a technical bid package nine (9) exterior doors. He said that three (3) bids were received on October 1, 2021 and they are as follows:

Castle Creek	\$39,850.00
Gonzales Contracting, Inc.	\$38,985.00
Barefoot Construction	\$36,740.00

Port Commission recommends awarding bid to the low bidder, Barefoot Construction, in the amount of \$36,740.00.

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 the Port Commission and staff, Council hereby awards the bid to replace nine (9) exterior doors at Nautical Landings Marina to Barefoot Construction, in the amount of \$36,740.00.

Seconded by Councilwoman District 4 (Mayor Pro Tem) Padron

Voting Yea:

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

9. **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**
- **To discuss personnel matters in accordance with Title 5, Section 551.074 of the Texas Government Code (to discuss appointment, employment, evaluation, responsibilities and duties, reassignment, discipline or dismissal of an officer or employee, or to hear a complaint or charge against an officer or employee [City Manager]). Presenter is Mayor Whitlow**

Mayor Whitlow announced that Council would retire into closed session at 8:00 p.m.

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

Mayor Whitlow announced that Council was back in open session at 8:26 p.m.

Motion made by Councilman District 2 Dent

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

THAT, Council hereby authorizes the City Manager to engage services of Cullen Law Firm for Special Litigation, as recommended by City Attorney.

Seconded by Councilwoman District 4 (Mayor Pro Tem) Padron

Voting Yea:

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

**IX. ADJOURNMENT**

Mayor asked for motion to adjourn.

Motion made by Councilwoman District 4 (Mayor Pro Tem) Padron, Seconded by Councilman District 5 Ward

Voting Yea:

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

Meeting adjourned at 8:28 p.m.

These minutes were approved on November 08, 2021.

ATTEST:

\_\_\_\_\_  
Jack Whitlow, Mayor

\_\_\_\_\_  
Mandy Grant, City Secretary