



CITY COUNCIL REGULAR MEETING

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

I. ROLL CALL

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

And with the following absent: None

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

II. CALL TO ORDER

- Mayor Whitlow called the meeting to order at 6:32 p.m. and presided.

III. INVOCATION

- Councilman Ward gave the invocation.

IV. PLEDGE OF ALLEGIANCE

- Mayor Whitlow – Pledge of Allegiance.

V. PRESENTATION(S) None

VI. PROCLAMATION(S) None

VII. COMMENTS FROM THE PUBLIC

(Limited to 3 minutes per individual unless permission to speak longer is received in advance)

- Mayor asked for comments from the public and there were none.

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

- A. Minutes of October 10, 2022 Regular Meeting
- B. Minutes of October 24, 2022 Joint Workshop - City Council & Planning Board
- C. Review of the Credit Card Statement
- D. Receive monthly Financial Highlight Report
- E. GLO Contract #20-065-071-C198 CDBG-DR Amendment No. 1 for Phase 1 Construction Contract to Lester Contracting, Inc.
- F. Audit Engagement Letter from Pattillo, Brown & Hill, L.L.P. for the City's 2022 Fiscal Year Auditing Services
- G. City of Port Lavaca Financial Policies and Procedures for Federal Grants
- H. Ratify Port Commission Lease for Bay Ltd. At Nautical Landings Suite 5 commencing on November 01, 2022 thru October 31, 2023 with Special Provisions to Extend in Section E
- I. Review and approve Quarterly Investment Report (07/01/2022 thru 09/30/2022)
- J. Review of Quarterly Financial Statements as of 09/30/22
- K. Receive results of Hotel Occupancy Tax Audit performed by Avenu Insights & Analytics

First Motion:

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.

Councilman District 5 Ward rescinded prior motion due to consent agenda item #E (GLO Contract #20-065-071-C198 CDBG-DR Amendment No. 1) being pulled for clarification.

Second Motion:

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 with the exception of #E (GLO Contract #20-065-071-C198 CDBG-DR Amendment No. 1).

Seconded by Councilman District 2 Dent

Voting Yea:

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

Third Motion:

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 corrected consent agenda item #E, GLO Contract #20-065-071-C198 CDBG-DR Amendment No. 1 for Phase 1 and Phase 2 Construction Contract to Lester Contracting, Inc.

Seconded by Councilman District 3 Tippit

Voting Yea:

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

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

1. **Receive and approve presentation of the Calhoun County E9-1-1 Emergency Communication District Proposed 2023 Fiscal Budget in accordance with the Health and Safety Code, Title 9 Safety, Subtitle B Emergencies, Chapter 772 Local Administration of Emergency Communications, Sec 772.309(4) Governing Body of Participating Jurisdiction. Presenter is Rachel Morales**

Rachel Morales, representing the Calhoun County E9-1-1 Communication District, was not in attendance; however, the proposed 2023 Fiscal Budget was available for Council Members.

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 approves the Calhoun County E9-1-1 Emergency Communication District Proposed 2023 Fiscal Budget in accordance with the Health and Safety Code, Title 9 Safety, Subtitle B Emergencies, Chapter 772 Local Administration of Emergency Communications, Sec 772.309(4) Governing Body of Participating Jurisdiction.

Seconded by Councilman District 6 Barr

Voting Yea:

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

2. **Consider request of Reyna Atilano and Gabriela Gutierrez, Port Lavaca, Texas for a Parade Permit with Police Escort for a Quinceañera procession with horses from Chocolate Bayou Park (2200 W. Austin Street) to the Bauer Community Center (2300 Hwy 35 North) on Saturday, December 17, 2022 commencing at 3:00 p.m. Presenter is Colin Rangnow**

Police Chief Rangnow requested Council approve a Parade Permit Application with Police Escort for a Quinceañera procession scheduled for December 17, 2022 at 3:00 p.m. The procession, with several horses (30 - 40), a lead vehicle with trailer and amplified music during the trek, will start at Chocolate Bayou Park (2200 W. Austin Street) and terminate at the Bauer Community Center (2300 Hwy 35 North).

The parade route will consist as follows:

- Start: Chocolate Bayou Park (2200 W Austin Street) East on W. Austin Street/FM 238
- North on S. Commerce FM 238 North on Broadway/FM 238
- End: Bauer Community Center (2300 Hwy 35 North)

Point of contact/requestor is Reyna Atilano (361) 218-8131 and Gabriela Gutierrez. (361) 482-6096. Requestor has already paid the \$25.00 required Parade Permit Fee to the City (Receipt # 002403). Requester will also comply with regulation that they must provide people to follow behind parade and pick up any animal excrement. Police Chief Rangnow recommends approval of request.

Motion made by Councilman District 1 Smith

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

THAT, in accordance with recommendation of staff, Council hereby approves the request of Reyna Atilano and Gabriela Gutierrez, Port Lavaca, Texas for a Parade Permit with Police Escort for a Quinceañera procession with horses from Chocolate Bayou Park (2200 W. Austin Street) to the Bauer Community Center (2300 Hwy 35 North) on Saturday, December 17, 2022 commencing at 3:00 p.m.

Seconded by Councilwoman District 4 (Mayor Pro Tem) Padron

Voting Yea:

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

3. **Consider request of Pastors Miguel and Anabel Hernandez of the Fountain of Life Church located at 123 W. Railroad Street, for closure of street for a Free Thanksgiving Dinner Event on Saturday, November 19, 2022 from 9:00 a.m. to 6:00 p.m. The street to be closed is the 100 block of W. Railroad Street between the 200 block of N. Virginia Street and the 200 Block of N. Ann Street. Presenter is Colin Rangnow**

Police Chief Rangnow advised Council that Pastors Miguel and Anabel Hernandez of the Fountain of Life Church located at 123 W. Railroad Street, have requested the closure of street for a Free Thanksgiving Dinner Event on Saturday, November 19, 2022 from 9:00 a.m. to 6:00 p.m.

The street to be closed is the 100 block of W. Railroad Street between the 200 block of N. Virginia Street and the 200 Block of N. Ann Street. Staff recommends approval of this request.

Motion made by Councilman District 2 Dent

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

THAT, in accordance with recommendation of staff, Council hereby approves the request of Pastors Miguel and Anabel Hernandez of the Fountain of Life Church located at 123 W. Railroad Street, for closure of street for a Free Thanksgiving Dinner Event on Saturday, November 19, 2022 from 9:00 a.m. to 6:00 p.m. The street to be closed is the 100 block of W. Railroad Street between the 200 block of N. Virginia Street and the 200 Block of N. Ann Street.

Seconded by Councilman District 3 Tippit

Voting Yea:

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

4. **Consider award of a construction contract to Mercer Construction for the Vela Lift Station repairs, in the amount of \$31,885.00. Presenter is Wayne Shaffer**

Public Works Director Shaffer advised Council that on June 29th of 2022 we authorized Premium Pumps and controls to commence replacement of discharge piping in the wet well of Vela Lift Station for \$17,747.00. Upon arrival, Premium Pump and Control changed the scope of work which increased the original quote by \$15,920.00. Subsequently we cancelled the work and rebid the job with the new scope.

This is one of three Lift Stations that pump directly to the Treatment Facility. It is currently temporarily repaired and failure would result in sanitary sewer overflows from not only Vela but all stations that pump to it. He said funds will come out of the Lift Station Maintenance account.

Staff recommends awarding the work to Mercer Construction for a low bid of \$31,885.00. Premium Pump and Controls quote was \$33,667.00, and Lester issued a Notice of No Bid.

Motion made by Councilman District 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 award of a Construction Contract to Mercer Construction for the Vela Lift Station repairs, in the amount of \$31,885.00.

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

Seconded by Councilman District 6 Barr

Voting Yea:

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

5. **Consider award of a 3-year contract for the Transport and Disposal and/or processing of Dewatered Wastewater Sludge. Presenter is Wayne Shaffer**

Public Works Director Shaffer advised Council that in order to provide the City with the best value, staff has requested bids for the Hauling and Disposal of Treated Sludge from the Wastewater Treatment Plant. This project is budgeted annually. He said only one company submitted a bid. Staff recommends awarding the contract to Aqua-Zyme Services, Inc. in the amount of \$825.00 per load.

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 award of a 3-year contract for the Transport and Disposal and/or processing of Dewatered Wastewater Sludge, to Aqua-Zyme Services, Inc., in the amount of \$825.00 per Load.

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

Seconded by Councilwoman District 4 (Mayor Pro Tem) Padron

Voting Yea:

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

6. **Consider award of a construction contract for the Animal Shelter. Presenter is Jody Weaver**

Motion made by Councilman District 3 Tippit

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

THAT, in accordance with recommendation of staff, Council hereby tables this agenda.

Seconded by Councilman District 2 Dent

Voting Yea:

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

7. **Consider Revised Change Order No. 1 for the Community Development Block Grant-Disaster Relief (CDBG-DR) Phase 1 Project. Presenter is Jody Weaver**

Interim City Manager Weaver advised Council that at the Council meeting held on October 10, 2022, Council approved a deductive Change Order for the above referenced project. Subsequently, CivilCorp discovered an addition error in the change in Construction Contract Price. As a result, the Change Order No.1 has been revised to reflect the correct resulting deduction of -\$9,081.00 instead of -\$20,781.00 which was shown on the document presented on October 10, 2022. Staff recommends approval.

Motion made by Councilman District 5 Ward

THAT, in accordance with recommendation of staff, Council hereby approves request of CivilCorp for revised/corrected Change Order No. 1, GLO Contract #20-065-071-C198 issued to Lester Contracting, Inc., for the Community Development Block Grant-Disaster Relief (CDBG-DR) Phase 1 Project, showing a reduction in the contract price by \$9,081.00.

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

Seconded by Councilman District 3 Tippit

Voting Yea:

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

8. **Consider request of Lester Contracting for reimbursement of \$31,406.00 of additional cost for limestone base material for CDBG-DR Contract No. 20-065-071-C198 Phase 1 (S. Lavaca Street and S. Juanita Street Benefit Area) due to supplier's increased cost for fuel and other supply challenges. Presenter is Jody Weaver**

Interim City Manager Weaver advised Council that in July, staff received a written request from Lester Contracting asking that the City consider paying for the extra cost they have incurred in the material cost of the limestone base for the Community Development Block Grant – Disaster Relief (CDBG-DR) Phase 1 Project. The material supplier was unable to hold the price which had been provided at the time the project was bid. This is unprecedented but occurred because the freight companies demanded more money to cover the increase in fuel prices and went on strike.

Staff has had discussions with the General Land Office (GLO) and City Attorney Odefey and find that there is language in the contract to make this adjustment if Council approves. We have found that we can realize about \$32,000.00 in savings to offset this additional cost by reducing the project scope as follows:

- Provide grass sod to a single strip behind all curb and gutter with the area behind one strip being seeded instead of sod.

In this way, additional City funds would not be required, beyond what has already been committed, should Council approve this request. Weaver reminded Council that with Change Order No. 1 the current contract price has currently been reduced by \$9,081.00 less than what has been committed.

The contract includes scope to seed the ditch that runs within the cemetery property, but the Cemetery Association is working with staff to replace the ditch with 2 each 30" storm pipe. It's possible that the seeding of this area may not be required, which would provide additional savings. We are near the end of the project, so we do not anticipate any new additional costs, but of course there are no guarantees until the project is complete.

Weaver said that by reducing the scope to provide a single row of grass sod behind the curbs and seeding behind that (as opposed to 2 or more rows of grass sod), we can realize enough savings to pay for this additional \$31,406.00. Staff recommends approval.

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 the request of Lester Contracting for reimbursement of \$31,406.00 of additional cost for limestone base material for CDBG-DR Contract No. 20-065-071-C198 Phase 1 (S. Lavaca Street and S. Juanita Street Benefit Area) due to supplier's increased cost for fuel and other supply challenges.

Seconded by Councilman District 6 Barr

Voting Yea:

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

Voting Nay:

Councilman District 2 Dent, Councilman District 3 Tippit

9. **Consider Resolution No. R-111422-1 of the City of Port Lavaca for selection of an Administrative Services Provider to complete application and project implementation for the City of Port Lavaca's 2023-2024 Texas Community Development Block Grant (TCDBG) Program funded and administered through the Texas Department of Agriculture. Presenter is Susan Lang**

Motion made by Councilman District 3 Tippit

WHEREAS, the 2023-2024 TxCDBG Community Development Block Grant Fund contract requires implementation by professionals experienced in the administration of federally-funded community development projects; and

WHEREAS, in order to identify qualified and responsive providers for these services a Request for Proposals (RFP) process for administration services has been completed in accordance with Texas CDBG requirements; and

WHEREAS, the proposals received by the due date have been reviewed to determine the most qualified and responsive providers for professional services.

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

Section 1. That GrantWorks be awarded a contract to provide Texas CDBG application and project-related administration services for the 23-24 Texas Community Development Block Grant Fund project.

Section 2. That any and all contracts or commitments made with the above-named services providers are dependent on the successful negotiation of a contract with the service provider.

Seconded by Councilman District 1 Smith

Voting Yea:

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

10. **Consider Resolution No. R-111422-2 of the City of Port Lavaca for an Engineering/Architectural/Surveying Service Provider(s) to complete project implementation for the City of Port Lavaca's 2023-2024 Texas Community Development Block Grant (TCDBG) funding administered by the Texas Department of Agriculture. Presenter is Susan Lang**

Motion made by Councilman District 2 Dent

WHEREAS, the 2023-2024 TxCDBG Community Development Block Grant Fund contract requires implementation by professionals experienced in federally-funded community development projects; and

WHEREAS, in order to identify qualified and responsive providers for these services a Request for Qualifications (RFQ) process for engineering/architectural/surveying services and has been completed in accordance with Texas CDBG requirements; and

WHEREAS, the statement of qualifications received by the due date have been reviewed to determine the most qualified and responsive providers for each professional service.

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

Section 1. That Urban Engineering be awarded a contract to provide TxCDBG application and project-related professional engineering/architectural/surveying services for the 2023-2024 Texas Community Development Fund project.

Section 2. That any and all contracts or commitments made with the above-named services providers are dependent on the successful negotiation of a contract with the service provider.

Seconded by Councilman District 6 Barr

Voting Yea:

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

11. **Consider Second and Final Reading of an Ordinance (G-8-22) of the City of Port Lavaca amending the Code of Ordinances, Chapter 32, Parks and Recreation, Article IV. Park Regulations, Section 32-72 Park Rules established and Section 32-75 Rules Specific to Lighthouse Beach Park and Campground; providing for severability; providing a repealing clause; and providing an effective date. Presenter is Wayne Shaffer**

Motion made by Councilman District 5 Ward

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

THAT, in accordance with recommendation of staff, Council hereby approves the Second and Final Reading of an Ordinance (G-8-22) of the City of Port Lavaca amending the Code of Ordinances, Chapter 32, Parks and Recreation, Article IV. Park Regulations, Section 32-72 Park Rules established and Section 32-75 Rules Specific to Lighthouse Beach Park and Campground; providing for severability; providing a repealing clause; and providing an effective date.

Seconded by Councilman District 6 Barr

Voting Yea:

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

12. **Consider First Reading of an Ordinance (G-9-22) of the City of Port Lavaca amending the Code of Ordinances, Chapter 12 Buildings and Building Regulations, Sec. 12-21, to provide a Temporary Housing Permit to allow placement of a Recreational Vehicle (RV) on site of an active residential permit for up to 180 days; providing for severability; providing a repealing clause; and providing an effective date. Presenter is Derrick Smith**

Motion made by Councilwoman District 4 (Mayor Pro Tem) Padron

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

THAT, in accordance with recommendation of staff, Council hereby approves the First Reading of an Ordinance (G-9-22) of the City of Port Lavaca amending the Code of Ordinances, Chapter 12 Buildings and Building Regulations, Sec. 12-21, to provide a Temporary Housing Permit to allow placement of a Recreational Vehicle (RV) on site of an active residential permit for up to 180 days; providing for severability; providing a repealing clause; and providing an effective date.

Seconded by Councilman District 1 Smith

Voting Yea:

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

13. **Consider First Reading of an Ordinance (G-10-22) of the City of Port Lavaca repealing the Code of Ordinances Chapter 26, Manufactured Housing; and providing an effective date. Presenter is Derrick Smith**

City Attorney responded to question of agenda item only stating the repeal but not the replacement of said ordinance with a new version. Odefey advised as long as the agenda language was corrected for the second and final reading, action could be taken for this first reading.

Motion made by Councilman District 2 Dent

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

THAT, in accordance with recommendation of staff, Council hereby approves the First Reading of an Ordinance (G-10-22) of the City of Port Lavaca repealing the old Code of Ordinances Chapter 26, Manufactured Housing; with modifications clarifying old ordinance will be replaced with a new version and also with the addition of a Homestead Status clause, for the second and final reading.

Seconded by Councilman District 1 Smith

Voting Yea:

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

14. **Consider lease of the peninsula tract (Tract 11) at the Harbor of Refuge to Encore Dredging Partners, LLC. Presenter is Jody Weaver**

Interim City Manager Weaver advised Council that in order to have full access to the Tracts that Encore is now leasing at the Harbor or Refuge, so that the City can perform required restoration of the ground surface above areas of the closed landfill, Encore has agreed to terminate their lease of Tracts 17 and 17Ar at the Harbor of Refuge and lease instead a newly established Tract 11. It is a combination of what was previously identified as Tracts 11, 12, and an unnumbered Tract and some Right-of-way. The original configuration of the Tracts of this Peninsula are no longer valid due to the extreme erosion that has occurred over the past 30 years. The boundary of the tract measures 17 acres. There is approximately 13.5 acres of land, as some of this tract includes an inlet on the north side of the Channel.

Encore and the Port Commission have agreed to a 3-year lease at \$2,500/month with an annual increase on October 1 of each year based upon the Municipal Cost Index (MCI). The new lease will be effective November 15, 2022 and expire on November 30, 2025. They will begin relocating immediately and be fully off the existing tracts by the end of December 2022. Encore will be investing an estimated \$60,000.00 in constructing a new road leading to and an operations pad within Tract 11.

It is noted that the Port Commission is in the process of having this and other Ports and Harbor properties appraised for use in establishing future rental rates.

The Port Commission and staff recommends terminating the existing lease of Tracts 17 and 17Ar with Encore Dredging and enter into a new lease for the newly established Tract 11, effective November 15, 2022. The new lease will use the standard lease document to be reviewed and approved by the City Attorney and will be effective November 15, 2022 and expire on November 30, 2025, with a rent increase per the Municipal Cost Index (MCI) on October 1 of each year. Council agrees to allow Encore Dredging until December 31, 2022 to remove their materials and equipment from the existing lease site.

Motion made by Councilman District 1 Smith

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

THAT, in accordance with recommendation of the Port Commission and staff, Council hereby approves terminating the existing lease of Tracts 17 and 17Ar with Encore Dredging and enter into a new lease for the newly established Tract 11, effective November 15, 2022. The new lease will use the standard lease document to be reviewed and approved by the City Attorney and will be effective November 15, 2022 and expire on November 30, 2025, with a rent increase per the Municipal Cost Index (MCI) on October 1 of each year. Council agrees to allow Encore Dredging until December 31, 2022 to remove their materials and equipment from the existing lease site.

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

Seconded by Councilman District 5 Ward

Voting Yea:

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

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

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

Mayor announced there would be no closed session.

16. **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 5 Ward, Seconded by Councilman District 6 Barr

Voting Yea:

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

Meeting adjourned at 7:32 p.m.

ATTEST:

Jack Whitlow, Mayor

Mandy Grant, City Secretary