



CITY COUNCIL REGULAR MEETING

Monday, February 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 February, 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 6:36p.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 the following spoke:
 - Jesse G. Cortez, 1503 eon Dr., Port Lavaca, TX, commented on drainage and speed limit violations in Alamo Heights subdivision (3rd Street, Leon Dr. and Shofner Street)

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

- A. Minutes of January 10, 2022 Regular Meeting**
- B. Minutes of January 31, 2022 Special and Workshop**
- C. Payment of Invoices Exceeding \$1,500**
- D. Receive monthly Financial Highlight Report**
- E. Consider 4th Quarterly Investment Report ending December 31, 2021**
- F. Consider Resolution No. R-021422-1 to approve Annual Review of the City of Port Lavaca’s Investment Policy and Strategy**
- G. Consider Amendments to the City of Port Lavaca’s Purchasing Policy and Procedures proposed by the City Finance and Investment Committee**
- H. Consider Gonzalez final plat located on Henry Barber Way, legal description is A0137 Samuel Shupe, part of tract 1, being 12.449 acres and PIN #14186**

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 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. Consider Resolution No. R-021422-2 of the City of Port Lavaca, Texas for Intent to Establish the Property Assessed Clean Energy (PACE) Program. Presenter is Jessica Carpenter**

Motion made by Councilman District 1 Smith

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 water or energy consumption or demand; and

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 will further the goals of energy and water conservation without cost to the public; and

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

WHEREAS, the City Council, subject to the public hearing scheduled as provided below, at which the public may comment on the proposed program and the report issued contemporaneously with this resolution, finds that it is convenient and advantageous to establish a program under the PACE Act and designate the entire geographic area within the City's jurisdiction as a region within which a designated City authorized representative and the record owners of qualified real property may enter into PACE financing agreements:

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

The Recitals to this Resolution are true and correct and are incorporated into this Order for all purposes. The City hereby adopts this Resolution of Intent and finds that financing qualified projects through contractual assessments pursuant to the PACE Act is a valid public purpose.

The City intends to make contractual assessments to repay PACE financing for qualified energy or water conserving projects available to owners of commercial, industrial, and large multifamily residential real property. The program is to be called the City of Port Lavaca Property Assessed Clean Energy Program ("Port Lavaca PACE").

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.

The boundaries of the entire geographic area within the City's jurisdiction, including its extraterritorial jurisdiction, are the boundaries of the region where PACE financing and assessments can occur.

Financing for qualified projects under the PACE program will be provided by qualified third-party lenders chosen by the owners. Such lenders will execute written contracts with the City's authorized representative to service the 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 contracts executed between the lenders and the owners. The lender contracts will provide that the City will maintain and continue the assessments for the benefit of such lenders and 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 PACE program.

The City will contract with Texas PACE Authority, a qualified non-profit organization to be the independent third-party Authorized Representative. The City will consult with the County Tax Assessor/Collector for Calhoun County.

The report on the proposed PACE program prepared as provided by Tex. Local Gov't Code Sec. 399.009, is available for public inspection on the City's Internet website and in the office of the at 202 N. Virginia Street, Port Lavaca, Texas 77979 and is incorporated in this resolution and made a part hereof for all purposes. The City Council will hold a public hearing on the proposed PACE program and report on the 14th day of March, 2022 at 6:30 p.m. in the Council Chambers at City Hall, 202 N. Virginia Street, Port Lavaca, Texas 77979.

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

2. Consider agreement between the City of Port Lavaca and the Calhoun County YMCA for operation of the Municipal Swimming Pool from April 01, 2022 to September 30, 2022. Presenter is Jody Weaver

Michele Morales, Executive Director of the Calhoun County YMCA, was in attendance and addressed Council. She advised there was a typo on Exhibit A showing the hours of operation as beginning at 11:00 p.m. and the correct time is at 11:00 a.m. The pool will always close by 6:00 p.m. Morales also advised Council that the rate of pay for the Lifeguards would be raised \$1.00 per hour. She said this is not part of the contract; however, she wanted to keep Council informed.

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 agreement between the City of Port Lavaca and the Calhoun County YMCA for operation of the Municipal Swimming Pool from April 01, 2022 to September 30, 2022.

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

3. **Consider request of Mike Bender from The Cowboy Fellowship of Port Lavaca Church for the use of Bayfront Peninsula Park Pavilion for an Easter Sunday Service on April 17, 2022 from 6:00 a.m. to 12:00 p.m. and waive any fees associated with the event. Presenter is Mandy Grant**

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 request of Mike Bender from The Cowboy Fellowship of Port Lavaca Church for the use of Bayfront Peninsula Park Pavilion for an Easter Sunday Service on April 17, 2022 from 6:00 a.m. to 12:00 p.m. and waive any fees associated with the event.

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

4. **Receive quarterly report from the Police Department for the newly formed Mental Health Peace Officer position. Presenter is Clinton Wooldridge**

Calvin Wooldridge, Mental Health Peace Officer for the Police Department presented a quarterly report to City Council.

No action necessary and none taken.

5. **Receive annual report from the Police Department for Racial Profiling. Presenter is Colin Rangnow**

Police Chief Rangnow presented the annual Racial Profiling Report to City Council.

No Action necessary and none taken.

6. **Consider request of Our Lady of the Gulf Catholic Church to host a walking procession on “Good Friday”, April 15, 2022, from 10:00 a.m. to 1:00 p.m., assistance with traffic control from the Police Department and waive any fees associated with the event. Presenter is Mandy Grant**

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 request of Our Lady of the Gulf Catholic Church to host a walking procession on “Good Friday”, April 15, 2022, from 10:00 a.m. to 1:00 p.m., assistance with traffic control from the Police Department and waive any fees associated with the event.

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

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

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 tables this agenda item until the next regular scheduled meeting.

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

8. **Consider amendment to the Professional Services agreement of Rawley McCoy and Associates (RMA), PLLC for the City Hall Renovations Project. Presenter is Jody Weaver**

Interim City Manager Weaver reminded Council that \$280,000.00 was budgeted this year for renovations to City Hall. She said that Rawley McCoy and Associates (RMA), PLLC had been contracted for a fee of 9% of the estimated cost of the scope of work proposed for bid, which was \$275,000.00 resulting in a \$24,750.00 professional services fee.

Generally, the scope items include the following:

- Rework northside storefront for ADA accessibility
- Rework southside storefront for ADA accessibility
- Demolish patio concrete block wall and overhead arbor
- Replace Low windows with architectural panels along south length of west wall
- Paint ground floor exterior plaster areas
- Landscaping and irrigation
- Police Department entry sidewalks
- Pipe Bollards at PD and North entrance

(Some of this proposed scope was included with the intent of them being alternate bid items).

Weaver presented a rendering of a conceptual design of the southwest side of City Hall (Virginia Street and Railroad) which includes 2 new supporting columns for the existing plaster overhang at the Virginia door exit and to complement this overhang, a proposed patio canopy on the north end of the existing "garden area" with two matching support columns. The canopy has a standing seam roof with wood framing, glulam beam and metal soffit panel. With the addition of these two features to the architectural design scope, the estimated construction cost would increase to \$316,100.00 and thus RMA's fee would increase to \$28,449.00. Note there are a few additional fees for surveying, windstorm certification, and ADA inspection that are not covered in the Architectural fee, which is estimated to cost around \$7,000.00.

Some of the design scope will be included as alternate bid items, so don't necessarily need to be awarded. The question at this point is if Council likes the design of the canopy and the 4 masonry-wrapped steel columns and would like to move forward with the design of these elements for bid. This will add \$3,699.00 to the Architectural fee and bring the estimated construction costs of the scope being bid to \$316,100.00.

Staff recommends authorizing the additional architectural fees to design for an estimated scope of \$316,100.00. There is no need to authorize any additional funds at this time until the project is bid. However, with this authorization, it is likely that additional general fund dollars will be needed, particularly if the decision is to award the base bid and alternates.

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 amendment to the Professional Services agreement of Rawley McCoy and Associates (RMA), PLLC for the City Hall Renovations Project to include the two (2) columns and exclude the extra canopy. The additional Architectural fee is not to exceed \$3,700.00.

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

- 9. **Consider first 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 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-1-22) to include speed limits on Piekert Subdivision, addition of codification and penalty clauses and correct some typos.

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

- 10. **Consider recommendation of the Planning Board for approval of a conceptual boat storage business to be located on Alcoa Drive. The legal description is A0137 Samuel Shupe, Tract PT 3, being 28.546 acres within the city limits of Port Lavaca, Texas. Presenter is Jessica Carpenter**

Development Services Director Carpenter advised Council that the applicant, Joshua Wagner, is proposing a boat storage business to be located on Alcoa Drive. The site location is currently not platted and is vacant land. This boat storage business may have a maximum of 300 units depending on the level of demand. The boat storage facility will be fenced and gated to provide security and ensure the safety to the customers. The facility will have asphalt and concrete with approved drain systems. There will also be a wash station for the customers to clean their boats.

The Future Land Use map designates this parcel as Commercial and Multi-family. The proposed boat storage use would be in compliance with the Future Land Use map. The proposed boat storage will support many aspects highlighted as goals and objective in the Comprehensive plan. (Pg. 147 Comprehensive Plan).

The Planning Board and staff recommend 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 the recommendation of the Planning Board and staff, Council hereby approves request of Joshua Wagner for a conceptual boat storage business to be located on Alcoa Drive. The legal description is A0137 Samuel Shupe, Tract PT 3, being 28.546 acres within the city limits of Port Lavaca, Texas.

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

RECESS:

Mayor Whitlow announced commencement of recess at 8:18 p.m.

Mayor Whitlow announced conclusion of recess at 8:31 p.m.

11. Consider recommendation of the Planning Board for approval of a conceptual high density residential area for multifamily apartment complex development. To be located to the north of Parker Road on Broadway Street to Tiney Browning Boulevard. Presenter is Jessica Carpenter

Development Services Director Carpenter advised Council that the applicant, Jeff Beckler, Assistant VP of Development for Zimmerman Properties, LLC, is proposing a multifamily apartment complex. The general site location is currently not platted and is vacant land. The preliminary density is anticipated to be 60 units. This is contingent upon if the developer is awarded a Texas Department of Housing and Community Affairs (TDHCA) Grant to fund the development of the proposed apartment complex.

The applicant is proposing 60 units of workforce housing for Port Lavaca. It will be a mix of 2- and 3-bedroom units and 50 of the 60 units will be at or below 60% Average Median Income (AMI) for Calhoun County. The remaining 10 will be market rate units. They will hit a number of income bands for the citizens, which really gives flexibility for all employment. All residents will be required to prove income, employment, and credit and criminal background checks. This is not a Section 8 property. Amenities include washer/dryer in each unit, dishwasher in each unit, fitness center, library, computer access, community area, clubhouse, tot lot for kids with a playground, BBQ area, etc.

The Planning Board and staff recommend approval of this request.

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 request of Jeff Beckler, Assistant VP of Development for Zimmerman Properties, LLC, for a conceptual high density residential area for multifamily apartment complex development. To be located to the north of Parker Road on Broadway Street to Tiney Browning Boulevard.

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

12. Consider Resolution No. R-021422-3 for support for the application of the Lavaca Bay Apartments as an affordable rental housing development.. Presenter is Jessica Carpenter

Motion made by Councilman District 5 Ward

WHEREAS, ZP Lavaca Bay Apartments, LP has proposed a development for affordable rental housing at southwest corner of Tiney Browning Blvd. and Broadway Street named Lavaca Bay Apartments in the City of Port Lavaca and

WHEREAS, ZP Lavaca Bay Apartments, LP has communicated that it intends to submit an application to the Texas Department of Housing and Community Affairs (“TDHCA”) for 2022 Housing Tax Credits for Lavaca Bay Apartments

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

THAT, as provided for in 10 TAC §11.3(c), it is expressly acknowledged and confirmed that the City of Port Lavaca has more than twice the state average of units per capita supported by Housing Tax Credits or Private Activity Bonds and

BE IT FURTHER RESOLVED, that the City of Port Lavaca hereby supports the proposed Lavaca Bay Apartments, and confirms that its governing body has voted specifically to approve the construction or rehabilitation of the Development and to authorize an allocation of Housing Tax Credits for the Development pursuant to Tex. Gov’t Code §2306.6703(a)(4), and

BE IT FURTHER RESOLVED that for and on behalf of the City Council, Jack Whitlow, Mayor is hereby authorized, empowered, and directed to certify this resolution to the Texas Department of Housing and Community Affairs (TDHCA).

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

13. Consider recommendation of the Planning Board for approval of a conceptual T-Mobile cellular phone store and a Starbucks café with a drive-thru. To be generally located north of Travis Street and south of Tiney Browning Boulevard on SH 35 N. Presenter is Jessica Carpenter

Development Services Director Carpenter advised Council that the applicant is proposing to open a T-Mobile cellular phone store and a Starbucks café with a drive-thru. The site location is adjacent to the White Oak strip mall development, south of Murphy’s fuel station, north of the La Quinta hotel, and west of Walmart. The plat for this location to be developed is ready for signatures and recording.

The Future Land Use map designates this parcel as Commercial; therefore, this proposed business is compliant.

The Planning Board and staff recommend approval of this request.

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 the Planning Board and staff, Council hereby approves a conceptual T-Mobile cellular phone store and a Starbucks café with a drive-thru. To be generally located north of Travis Street and south of Tiney Browning Boulevard on SH 35 N.

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

14. 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 Whitlow announced that Council would retire into closed session at 8:41 p.m.

15. 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 9:55 p.m.

No action necessary and none taken.

IX. ADJOURNMENT

Mayor asked for motion to adjourn.

Motion made by Councilman District 6 Barr, 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

Meeting adjourned at 9:56 p.m.

These minutes were approved on March 14, 2022.

ATTEST:

Jack Whitlow, Mayor

Mandy Grant, City Secretary