



CITY COUNCIL REGULAR MEETING

Monday, January 09, 2023 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 9th day of January, 2023, 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 |
| Jim Ward | Councilman, District 5 |
| Ken Barr | Councilman, District 6 |

And with the following absent:

| | |
|-----------------|---|
| Rosie G. Padron | Councilwoman, District 4, Mayor Pro Tem |
|-----------------|---|

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 6:31 p.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

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 there were none:

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

- A. Minutes of December 12, 2022 Regular Meeting**
- B. Review of Credit Card Statement**
- C. Receive Monthly Financial Highlight Report**
- D. Ratify Lease of Tract 3 at the Harbor of Refuge to Encore Dredging, LLC**
- E. Ratify Resolution No. R-010923-2 for Police Department to apply for Grant Funds from the Office of the Governor, Public Safety Office Criminal Justice Division for the Bullet-Resistant Shield Grant Program**
- F. Receive quarterly financial statements for fiscal year 2023 as of 12/31/22**

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:

Seconded by Councilman District 6 Barr.

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippit, 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-010923-1E for establishing provisions for conduct for the City of Port Lavaca General Officers Election held on the uniform date of May 06, 2023 and authorize Mayor to issue Order of Election. Presenter is Mandy Grant**

Motion made by Councilman District 1 Smith

WHEREAS, in accordance with the City Charter of the City of Port Lavaca, the Texas Election Code and other applicable state and federal laws, the City Council of the City of Port Lavaca, Texas hereby finds that a general officers election should be held on Saturday, May 06, 2023.

WHEREAS, in addition to calling and ordering the general officers election, City Council finds it necessary and expedient to establish provisions for the conduct of such election:

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

SECTION 1. THAT, an election shall be held on Saturday, May 06, 2023, which is a uniform election date, in the City of Port Lavaca, Texas, which date is not less than forty-five (45) days from the date of the adoption of this resolution for the purpose of electing the following officers:

One Council Member, Single District One (1), for a term of 3 years; and
One Council Member, Single District Three (3), for a term of 3 years; and

SECTION 2. THAT. the Qualifications for Office, per City Charter Article 4.02, are as follows:

In addition to the requirements of state law, at the time of election to office, the Mayor and each member of Council shall be at least twenty one (21) years of age, shall be a United States citizen and qualified voter of the State of Texas, shall have resided in the City for not less than one (1) year immediately preceding the election filing deadline and, if elected from a district, shall have resided in the district from which elected for not less than six (6) months immediately preceding the election filing deadline.

Candidates for office shall make a sworn application for a place on the ballot within the times prescribed by the Texas Election Code, and pay any filing fee established by ordinance. Applications shall designate the position sought and applications for council member shall include the district number, if applicable. It shall be the duty of the Office of the City Secretary of the City of Port Lavaca to place the name of all qualified candidates making timely application on the official ballot. Legal proof of length of residency in the City and/or district must be presented to the Office of the City Secretary upon filing for office.

SECTION 3. THAT, per City Charter, Article 4.03, the candidate receiving a majority of the votes cast for the office sought shall be elected to that office. In the event no candidate receives a majority of the votes cast at the regular election, then and in that event, a run-off election shall be held in accordance with Texas Election Law following procedures therein.

SECTION 4. THAT, the Office of the City Secretary of the City of Port Lavaca shall consist of the City Secretary and/or the Assistant City Secretary and shall perform all duties necessary to conduct the general officer's election.

SECTION 5. THAT, the Office of the City Secretary, is expressly authorized to obtain election supplies and equipment required by law and necessary to conduct such election.

SECTION 6. THAT, such election shall be conducted by the City of Port Lavaca, with Early Voting Days and the Election Day voting to be at the following polling place designated for each City election district:

| DISTRICT NUMBER | POLLING PLACE |
|-----------------|--|
| District One | City of Port Lavaca City Hall – Main Lobby 202 N. Virginia Street |
| District Two | City of Port Lavaca City Hall – Main Lobby 202 N. Virginia Street |
| District Three | City of Port Lavaca City Hall - Main Lobby 202 N. Virginia Street |
| District Four | City of Port Lavaca City Hall - Main Lobby 202 N. Virginia Street |
| District Five | City of Port Lavaca City Hall - Main Lobby 202 N. Virginia Street |
| District Six | City of Port Lavaca City Hall -Main Lobby 202 N. Virginia Street |

SECTION 7. THAT, Early Voting Days and extended hours to vote on a Saturday shall be conducted during the following schedule in 2023:

| | | | | | | | | |
|-----------------|--------------|-----------|-------------|-------------|-------------|-----------|-------------|-------------|
| Monday | April | 24 | from | 8:00 | a.m. | to | 5:00 | p.m. |
| Tuesday | April | 25 | from | 7:00 | a.m. | to | 7:00 | p.m. |
| Wednesday | April | 26 | from | 8:00 | a.m. | to | 5:00 | p.m. |
| Thursday | April | 27 | from | 7:00 | a.m. | to | 7:00 | p.m. |
| Friday | April | 28 | from | 8:00 | a.m. | to | 5:00 | p.m. |
| Saturday | April | 29 | from | 9:00 | a.m. | to | 2:00 | p.m. |
| Monday | May | 01 | from | 8:00 | a.m. | to | 5:00 | p.m. |
| Tuesday | May | 02 | from | 8:00 | a.m. | to | 5:00 | p.m. |

Early voting by personal appearance shall be conducted during the regular business hours of the Office of the City Secretary each weekday from 8:00 a.m. until 5:00 p.m., except for the second and fourth days of the early voting period by personal appearance. On the second and fourth days of early voting by personal appearance, the Office of the City Secretary's regular business hours are hereby designated as 7:00 a.m. until 7:00 p.m. In addition, there will be extended hours of the early voting period by personal appearance held on a Saturday from 9:00 a.m. until 3:00 p.m.

SECTION 8. THAT, Election Day Voting shall be conducted during the following date and time:

| | | | | | | | | |
|-----------------|------------|-----------|-------------|-------------|-------------|-----------|-------------|-------------|
| Saturday | May | 06 | from | 7:00 | a.m. | to | 7:00 | p.m. |
|-----------------|------------|-----------|-------------|-------------|-------------|-----------|-------------|-------------|

SECTION 9. THAT, Notice of the election, including a Spanish translation thereof, shall be posted at City Hall and published in a local newspaper as provided by the Home Rule Charter of the City of Port

Lavaca, the Texas Election Code and/or other state and federal law, and the Mayor, or his designee, is hereby authorized and directed to execute such Notice together with an Order calling such election.

SECTION 10. THAT, should any part, section, subsection, paragraph, sentence, clause or phrase contained in this resolution be held to be unconstitutional or of no force and effect, such holding shall not affect the validity of the remaining portion of this resolution, but in all respects said remaining portion shall be and remain in full force and effect.

SECTION 11. THAT, this resolution shall be effective immediately upon adoption.

Seconded by Councilman District 6 Barr

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippit, Councilman District 5 Ward, Councilman District 6 Barr

2. **Consider contract with Hahn Equipment in the amount of \$26,121.07 for repairs to the Main Lift Station Pump. Presenter is Wayne Shaffer**

Public Works Director Shaffer advised Council that on December 2nd, 2022, Hahn Equipment Company, Inc. was solicited to pull and derag pumps at the main lift station. When the second pump was pulled, they discovered that the bolts that hold the motor to the volute were sheared off. Shaffer explained that because of that, the motor was spinning in the volute housing. This caused damage to the cable and cable seals and subsequently allowed water into the motor. He said that not replacing the pump could result in excessive sanitary sewer overflows and violations and or fines with Texas Commission on Environmental Quality (TCEQ). He said that Hahn Equipment Company of Houston, Texas would repair the pump for the sum of \$26,121.07.

Motion made by Councilman District 5 Barr

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 authorizes the repairs to the lift station pump be made by Hahn Equipment Company, Inc. of Houston, Texas, for the sum of twenty-six thousand one hundred and twenty-one dollars and seven cents (\$26,121.07).

Seconded by Councilman District 1 Smith

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippit, Councilman District 5 Ward, Councilman District 6 Barr

3. **Consider award of Construction Bid for the Lynn's Bayou Wastewater Treatment Plant (WWTP) Improvements per AECOM Engineering Project No. 60659778. Presenter is Wayne Shaffer**

Public Works Director Shaffer advised Council that bids were received by the City of Port Lavaca for the Lynn's Bayou Wastewater Treatment Plant improvements project. AECOM was sent the pricing and bid sheets submitted by the three bids received.

Shaffer advised Council the following bids were received:

| | Bidder Name | Grand Total |
|-------|-------------------------------------|----------------|
| No. 1 | JTR Constructors, Inc. | \$1,252,125.00 |
| No. 2 | LEM Construction Company, Inc | \$1,352,400.00 |
| No.3 | Mahan Construction Consultants, LLC | \$3,090,305.20 |

Shaffer said that there were deficiencies found in the bid received from Mahan Construction Consultants LLC and that they did not submit the bid security required. He said that after tabulating and reviewing each bid, AECOM confirmed that JTR Constructors, Inc was the low bidder. He said AECOM recommends that JTR Constructors be awarded the contract because they have the experience and qualification to perform the scope of work as specified in the contract documents for the project.

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 the recommendation of staff, Council hereby awards a construction contract for the Lynn's Bayou Wastewater Treatment Plant (WWTP) Improvements Project, to JTR Constructors, Inc. in the amount of one million two hundred and fifty-two thousand one hundred twenty-five dollars and zero cents (\$1,252,125.00) pending confirmation that JTR Constructors, Inc is registered with SAM.gov and is not on the exclusion list of Federal Contracts.

Seconded by Councilman District 1 Smith

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippit, Councilman District 5 Ward, Councilman District 6 Barr

4. **Consider award of Construction Bid for the 2022 Nautical Landings Electrical Improvements. Presenter is Derrick Smith**

Development Services Director Smith advised Council that bids were received by the City of Port Lavaca for the Nautical Landings Office Building Improvements Project. He said that the electrical work would

be for the east side of the building. He told Council that although American Construction has offered to complete construction in thirty-five (35) days, staff does not believe that the savings in days is enough to warrant an increase in cost of twenty percent (20%). Smith stated that staff recommends awarding the bid to Barefoot Construction for seventy-three thousand seven hundred and eighty dollars and zero cents (\$73,780.00).

Smith advised Council the following bids were received:

| | | | | |
|----------------|---|------------------------|--|-------------------------------------|
| Bidder: | American Construction, LLC. Port Lavaca | Barefoot Construction | Brown and Root Construction | BLS Construction |
| e-mail | Firestone7993@gmail.com | markbarefoot@gmail.com | Daniel.croasmun@brownanddroot.com | Lorenzo.tenorio@blsconstruction.com |
| Bid Amount: | \$92,000.00 | \$73,780.00 | Did not return bid | Did not return bid |
| Calendar Days: | 35 | 120 | | |
| Bid Bond: | ✓ | ✓ | | |

Motion made by Councilman District 6 Barr

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

THAT, in accordance with the recommendation of staff, Council hereby awards a construction contract for the Lynn's Bayou Wastewater Treatment Plant (WWTP) Improvements Project, to JTR Constructors, Inc. in the amount of one million two hundred and fifty-two thousand one hundred twenty-five dollars and zero cents (\$1,252,125.00) pending confirmation that JTR Constructors, Inc is registered with SAM.gov and is not on exclusion list of Federal Contracts.

Seconded by Councilman District 5 Ward

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippit, Councilman District 5 Ward, Councilman District 6 Barr

5. **Consider award of the Bank Depository Contract and execution of Depository Agreement and Depository Pledge Agreement for City Funds. Presenter is Susan Lang**

Finance Director Lang advised Council that the City executed a bank depository contract with First National Bank of Port Lavaca, Texas on January 22, 2018 for a period of five (5) years beginning February 1, 2018 and ending January 31, 2023. Lang said the City advertised in the newspaper and in on the City

of Port Lavaca website seeking RFP proposals for depository services. In addition, the City e-mailed the RFP proposals to First National Bank, IBC Bank, and Prosperity Bank. The only bank that responded to the RFP proposals was First National Bank. Lang provided the proposed depository agreement and depository pledge agreement for Council review. She said that the City has had a long relationship with First National Bank and feels the bank is a solid partner. She explained that the bank offered two options for interest earnings and demand deposits.

Options presented were:

Option 1: Fixed Rate of 1.50%

Option 2: Variable Rate 13-week US Treasury Bill minus 1.00%

Motion made by Councilman District 5 Ward

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 awards the Bank Depository Contract for City funds to First National Bank in Port Lavaca, Texas for a period of five (5) years beginning February 01, 2023 and ending January 31, 2028 and with option one (1) of the one and five tenths percent (1.50%) fixed earnings rate for two (2) years, in accordance with the terms of its Depository Bank Proposal

Seconded by Councilman District 1 Smith

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippit, Councilman District 5 Ward, Councilman District 6 Barr

6. **Consider Second and Final Reading of an Ordinance (G-11-22) of the City of Port Lavaca amending the Code of Ordinances, Part II, Appendix A – Fees, Rates and Charges (Chapter 12 – Buildings and Building Regulations, Sec. 12-1 Construction Code Services: Fee Table 3 – Construction or Improvement of a Residential Dwelling) (Chapter 26 – Manufactured Housing and Recreational Vehicle Parks, Sec. 26-9 and 26-26) and providing an effective date. Presenter is Derrick Smith**

Mayor Whitlow read for the second and final reading:

AN ORDINANCE AMENDING THE ORDINANCE CODIFIED AND DESCRIBED IN THE CITY OF PORT LAVACA CODE OF ORDINANCES AS PART II, APPENDIX A – FEES, RATES AND CHARGES; AND PROVIDING AN EFFECTIVE DATE

Motion made by Councilman District 6 Barr

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

THAT, Council hereby approves said ordinance (G-11-22) on this its second and final reading.

Seconded by Councilman District 5 Ward

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippit, Councilman District 5 Ward, Councilman District 6 Barr

7. **Consider Second and Final Reading of an Ordinance (G-12-22) of the City of Port Lavaca amending the Code of Ordinances, Part II, Appendix A – Fees, Rates and Charges (Chapter 50 – Utilities, Sec. 50-67 Water User Rates; Sec. 50-122 to Sec. 50-123 Sewer Table Rates) and providing an effective date. Presenter is Susan Lang**

Mayor Whitlow read for the second and final reading:

AN ORDINANCE AMENDING THE ORDINANCE CODIFIED AND DESCRIBED IN THE CITY OF PORT LAVACA CODE OF ORDINANCES AS PART II, APPENDIX A – FEES, RATES AND CHARGES; AND PROVIDING AN EFFECTIVE DATE

Motion made by Councilman District 5 Ward

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

THAT, Council hereby approves said ordinance (G-12-22) on this its second and final reading.

Seconded by Councilman District 6 Barr

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippit, Councilman District 5 Ward, Councilman District 6 Barr

8. **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 deliberate commercial or financial information that was received from a business prospect that seeks to locate, stay, or expand in or near the territory of the Governmental Body, and with which the Governmental Body is conducting Economic Development Negotiations, in accordance with Title 5, Chapter 551, Section 551.087 of the Texas Government Code. Presenter is Mayor Whitlow**

Mayor Whitlow announced that Council would retire into closed session at 7:03 p.m.

9. **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 7:18 p.m. and advised there would be no action with regard to matters in closed session

IX. ADJOURNMENT

Mayor asked for motion to adjourn.

Motion made by Councilman District 6 Barr

Seconded by Councilman District 3 Tippit

Voting Yea:

Councilman District 1 Smith, Councilman District 2 Dent, Councilman District 3 Tippit, Councilman District 5 Ward, Councilman District 6 Barr

Meeting adjourned at 7:20 p.m.

These minutes were approved on February 13, 2023.

ATTEST:

Jack Whitlow, Mayor

Lorena Perez-Diaz,
Assistant City Secretary