CITY COUNCIL SPECIAL MEETING

Monday, September 20, 2021 at 6:30 PM
Council Chambers at City Hall, 202 North Virginia Street, Port Lavaca

MINUTES

STATE OF TEXAS §
COUNTY OF CALHOUN §
CITY OF PORT LAVACA §

On this the 20th day of September, 2021, the City Council of the City of Port Lavaca, Texas, convened in a special 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 (via Zoom)	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 6:40 p.m. and presided.

III. INVOCATION

- Councilman Ward gave the invocation.

IV. PLEDGE OF ALLEGIANCE

- Mayor Whitlow – Pledge of Allegiance.

V. PRESENTATION(S)

- Proclamations by the Mayor (Not read during session)
  - National Small Business Week - September 13 to 17, 2021

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.*

- James Ramirez on Facebook about the new Skate Park's progress.

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

A. <u>Minutes of August 02, 2021 Workshop</u>
B. <u>Minutes of August 09, 2021 Regular Meeting</u>
C. <u>Minutes of August 16, 2021 Special and Workshop</u>
D. <u>Payment of Invoices Exceeding $1,500</u>
E. <u>Receive monthly Financial Highlight Report</u>

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, 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. **<u>Consider request of Calhoun County Fair Association (CCFA) for waiver of parade permit fees on Saturday, October 09, 2021 and also assistance with traffic control from Sandcrab Stadium, San Faubion, N. Virginia, Main streets to end at the Bayfront Peninsula. Presenter is Amanda Gonzales</u>**

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 Calhoun County Fair Association (CCFA) for waiver of parade permit fees on Saturday, October 09, 2021 and also assistance with traffic control.

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 Calhoun High School Class of 2023 to host a "Color Run" as a fundraiser to help with prom expenses, on Saturday, December 11, 2021, assist with traffic control along the route and waive any fees associated with the event. Presenter is Erin Smith and Esmeralda Sanchez**

Tania French made the request on behalf of the Calhoun High School Class of 2023.

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 approves request of Calhoun High School Class of 2023 to host a "Color Run" as a fundraiser to help with prom expenses, on Saturday, December 11, 2021, assist with traffic control along the route 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

3. **Consider request of Our Lady of the Gulf Alter Society for closure of Benavides Street between Leona and Austin Streets for their Turkey Dinner drive-thru on November 07, 2021 from 10:00 a.m. to 1:30 p.m. Presenter is Anne Marie Odefey**

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

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 Alter Society for closure of Benavides Street between Leona and Austin Streets for their Turkey Dinner drive-thru on November 07, 2021 from 10:00 a.m. to 1:30 p.m.

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

4. **Consider award of the construction bid for the Lighthouse Beach RV Park electrical repairs. Presenter is Wayne Shaffer**

Interim City Manager Weaver advised Council that on July 26, the electrical power for the "hillside" RV spaces became overloaded and blew. Staff contracted with G&W Engineers for a lump sum fee of $7,000.00 to prepare technical specifications to bid out repairs to the existing meter loop and add another.

Staff advertised for bids in the Port Lavaca Wave Newspaper and had three (3) potential bidders pick up bid packages. Staff received only one (1) bid on September 2 from Lectric Electrical Contracting, Inc of Rockport, in the amount of $52,565.00. She said this is the electrical contractor working on the Lighthouse Beach Pier. G&W's engineer's estimate was $50,000.00.

FINANCIAL IMPACT:
This project is required to return power to 28 RV spaces so they can be offered for rent again. This is a potential $14,000.00 per month of revenue, if full with monthly rentals.

Weaver reminded Council that the 2020-2021 fiscal year budget includes $250,000.00 in Capital Expenditure in the Beach OperatingFund for the Lighthouse Beach Reconstruction. Per her memo to Council on January 25, 2021, $31,000.00 of General Fund Reserves was required to fully fund the pier reconstruction. She said all of the $250,000.00 of the Beach Revenue Fund has not been expensed yet, so staff is proposing to encumber this $52,565.00 using the remaining budgeted Beach Revenue Fund Capital Improvement Budget, which will result in requiring an additional $52,565.00 of General Fund Reserves to fully fund the pier reconstruction project.

Staff recommends an award of a construction contract to Lectric Electrical in the amount of $52,565.00.

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 award of construction bid for the Lighthouse Beach RV Park electrical repairs to Lectric Electric in the amount of $52,565.00.

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

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

5. **Consider appointment/reappointment of member(s) to Planning Board to fill a vacancy and/or start a new term. Presenter is Jessica Carpenter**

Economic Development Director Carpenter advised Council the Planning Board has a vacancy and a letter of interest from Sheryl Cuellar has been received. She has expressed interest in a second full-term appointment with the Planning Board. Mrs. Cuellar is a pillar in the Port Lavaca community and feels that her experience in meetings and passion towards Port Lavaca will be a good resource to the Planning Board.

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 reappoints Sheryl Cuellar to the Planning Board to serve a new two-year term.

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

6. **Consider second and final reading of an ordinance (S-1-21) approving the annual budget for the City of Port Lavaca, Texas and adopting the budget document for the fiscal year October 01, 2021 thru September 30, 2022. Presenter is Susan Lang**

Motion made by Councilman District 3 Tippit

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

THAT, Council hereby adopts the Fiscal Year 2021-2022 Annual Budget as presented by the City Manager.

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 Fiscal Year 2021-2022 Annual Budget Ordinance (S-1-21) on this its second and final reading.

Seconded by Councilman District 1 Smith

Voting Yea and Record Vote:

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

Voting Nay and Record Vote:
Councilman District 2 Dent

City Attorney Odefey made the observation, after the motions and votes were taken, that the Ordinance document (No. S-1-21 for the 2021-2022 fiscal year budget) in the council meeting packet, was not correct. She declared the motions were correct; however, minutes were to reflect the typographical error.

Author's note: The Ordinance S-1-21 has been substituted with the corrected one and does have authorized signatures affixed to the document and a copy, in its entirety, is on file in the office of the City Secretary.

7. **Consider second and final reading of an ordinance (S-2-21) fixing the tax rate and tax levy for the city for the year 2021. Presenter is Susan Lang**

MOTION #1:
Motion made by Councilman District 3 Tippit

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

THAT, the property tax rate be increased by the adoption of a tax rate of $0.7944, which is effectively a 6.5% increase in the tax rate.

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

THAT, in accordance with recommendation of staff, Council hereby approves fixing the 2021 Tax Rate and Tax Levy Ordinance (S-2-21) on this its 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

Voting Nay: None

MOTION #2:
Motion made by Councilman District 3 Tippit

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

THAT, City Council adopts a Maintenance and Operations rate of $0.7308.

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

Voting Nay: None

MOTION #3:
Motion made by Councilman District 3 Tippit

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

THAT, City Council adopts an Interest & Sinking rate of $0.0636.

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

Voting Nay: None

City Attorney Odefey made the observation, after the motions and votes were taken, that the Ordinance document (No. S-2-21 for fixing the 2021 Tax Rate and Tax Levy) in the council meeting packet, was not correct. She declared the motions were correct; however, minutes were to reflect the typographical error.

Author's note: The Ordinance S-2-21 has been substituted with the corrected one and does have authorized signatures affixed to the document and a copy, in its entirety, is on file in the office of the City Secretary.

8. **Consider second and final reading of an ordinance (G-4-21) to make amendments to Appendix A - Fees, Rates and Charges; and providing for an effective date. Presenter is Jody Weaver**

Interim City Manager Weaver advised Council that she had followed their recommendation to amend fees in Chapter 54, Waterways on the Harbor of Refuge - Use of Rail Spur from $1,000.00 per month down to $833.00 per month, for the second and final 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 amending Appendix A – Fees, Rates and Charges ordinance (G-4-21) on this its first reading with correction to Chapter 54 Waterways as presented above.

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

9. **Consider Resolution No. R-092021-1 for Prevailing Wage Rate on the City of Port Lavaca Police Department Re-Roof Project. Presenter is Jody Weaver**

Motion made by Councilman District 5 ward

WHEREAS, Section 2258.022(a), of the Texas Government Code states: For a contract for a public work awarded by a political subdivision of the state, the public body shall determine the general prevailing rate of per diem wages in the locality in which the public work is to be performed for each craft or type of worker needed to execute the contract and the prevailing rate for legal holiday and overtime work, and

WHEREAS, Section 2258.022(a) of the Texas Government Code Subsections (1) and (2) go on to state the public body's options in fulfilling its statutory responsibility of determining prevailing wage rates as being: (1) conducting a survey of the wages received by classes of workers employed on projects of a character similar to the contract work in the political subdivision of the state in which the public work is to be performed; or (2) using the prevailing wage rate as determined by the United States Department of Labor in accordance with the Davis-Bacon Act (40 U.S.C. Section 276a et seq.), and its subsequent amendments;

NOW THEREFORE, BE IT RESOLVED that the City of Port Lavaca City Council hereby selects Section 2258.022(a), Subsection (2) of the Texas Government Code as its option in determining the general prevailing rate of per diem wages in the locality in which the public work is to be performed for each craft or type of worker needed to execute the contract and the prevailing rate for legal holiday and overtime work as determined by the United States Department of Labor in accordance with the Davis-Bacon Act (40 U.S.C. Section 276a et seq.), and its subsequent amendments as can be found on the following web site (www.wdol.gov/dba.aspx#0,), for the construction project titled " Police Department Re-Roof".

Seconded by Councilman District 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

10. **Consider Resolution No. R-092021-2 for Delegation of Authority on the City of Port Lavaca Police Department Re-Roof Project. Presenter is Jody Weaver**

Motion made by Councilman District 5 Ward

WHEREAS, Section 2269.053(a), of the Texas Government Code provides that the governing body of a governmental entity may delegate its authority under this chapter regarding an action authorized or required by this chapter to a designated representative, committee, or other, and

WHEREAS, The City of Port Lavaca City Council wishes to delegate its authority under SUBCHAPTER D. COMPETITIVE SEALED PROPOSAL METHOD of CHAPTER 2269; CONTRACTING AND DELIVERY PROCEDURES FOR CONSTRUCTION PROJECTS, SECTION 2269.155, SELECTION OF OFFEROR, of the Texas Government Code to the designated person of Jody Weaver, City Manager, as authorized by Section 2269.053(a), of the Texas Government Code as it relates to the selection of an Offeror as prescribed under Section 2269.155 of the Texas Government Code for the construction project titled "Police Department Re-Roof";

NOW THEREFORE, BE IT RESOLVED that the City of Port Lavaca City Council hereby delegates its authority under SUBCHAPTER D. COMPETITIVE SEALED PROPOSAL METHOD of CHAPTER 2269; CONTRACTING AND DELIVERY PROCEDURES FOR CONSTRUCTION PROJECTS, SECTION 2269.155, SELECTION OF OFFEROR, of the Texas Government Code to the designated person of Jody Weaver, City Manager, as authorized by Section 2269.053(a), of the Texas Government Code as it relates to the selection of an Offeror as prescribed under SECTION 2269.155, SELECTION OF OFFEROR of the Texas Government Code for the construction project titled "Police Department Re-Roof", and

THEREFORE, LET IT BE FURTHER RESOLVED by the City of Port Lavaca City Council that it desires for Jody Weaver, City Manager, within the scope of the authority delegated to her under Section 2269.155, SELECTION OF OFFEROR of the Texas Government Code for the construction project titled "Police Department Re-Roof" to form a committee of her choosing, which may, but not necessarily, include some members of the City Council of the City of Port Lavaca in numbers not establishing a quorum of the Council, to advise her in the selection process for Construction Services for the selection of an Offeror as prescribed under Section 2269.155 of the Texas Government Code for said construction project and bring her recommended selection to the City of Port Lavaca City Council for final approval.

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

11. **Consider Resolution No. R-092021-3 for Construction Procurement Method on the City of Port Lavaca Police Department Re-Roof Project. Presenter is Jody Weaver**

Motion made by Councilman District 5 Ward

WHEREAS, Section 2269.056(a), of the Texas Government Code states that the governing body of a governmental entity that considers a construction contract using a method authorized by this chapter other than competitive bidding must, before advertising, determine which method provides the best value for the governmental entity, and

WHEREAS, the City of Port Lavaca City Council has determined that the construction procurement method specified under SUBCHAPTER D. COMPETITIVE SEALED PROPOSAL METHOD of CHAPTER 2269. CONTRACTING AND DELIVERY PROCEDURES FOR CONSTRUCTION PROJECTS of the Texas Government Code provides the best value for the City of Port Lavaca for the construction project titled "Police Department Re-Roof"

THEREFORE, LET IT BE RESOLVED by the City of Port Lavaca City Council that the Council has decided to use the Competitive Sealed Proposal process as specified under SUBCHAPTER D. COMPETITIVE SEALED PROPOSAL METHOD of CHAPTER 2269. CONTRACTING AND DELIVERY PROCEDURES FOR CONSTRUCTION PROJECTS of the Texas Government Code for the construction project titled "Police Department Re-Roof".

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

12. **Consider Resolution No. R-092021-4 for Selection Committee and Proposal Ranking Criteria on the City of Port Lavaca Police Department Re-Roof Project. Presenter is Jody Weaver**

Motion made by Councilman District 1 Smith

WHEREAS, Section 2269.053(a), of the Texas Government Code provides that the governing body of a governmental entity may delegate its authority under this chapter regarding an action authorized or required by this chapter to a designated representative, committee, or other, and

WHEREAS, the City of Port Lavaca City Council by resolution adopted on September 13th 2021 did delegate its authority under SUBCHAPTER D. COMPETITIVE SEALED PROPOSAL METHOD of CHAPTER 2269; CONTRACTING AND DELIVERY PROCEDURES FOR CONSTRUCTION PROJECTS, SECTION 2269.155, SELECTION OF OFFEROR, of the Texas Government Code to the designated person of Jody Weaver, City Manager as authorized by Section 2269.053(a), of the Texas Government Code as it relates to the selection of an Offeror as prescribed under Section 2269.155 of the Texas Government Code for the construction project titled "Police Department Re-Roof";

AND WHEREAS the City of Port Lavaca City Council stated in that resolution that its desire was for Jody Weaver, City Manager within the scope of the authority delegated to her under Section 2269.155, SELECTION OF OFFEROR of the Texas Government Code for the construction project titled "Police Department Re-Roof" to form a committee of her choosing, including but not limited to some members of the City Council of the City of Port Lavaca, to advise her in the selection process for Construction Services for the selection of an Offeror as prescribed under Section 2269.155 of the Texas Government Code for said construction project and bring her recommended selection to the City Council of the City of Port Lavaca for final approval.

NOW THEREFORE, BE IT RESOLVED by Jody Weaver, City Manager, that she hereby appoints the following committee to advise her in the selection process for Construction Services for the selection of an Offeror as prescribed under Section 2269.155 of the Texas Government Code and as directed by the City Council of the City of Port Lavaca:

Jody Weaver	City Manager
Colin Rangnow	Police Chief
Susan Lang	Finance Director
Tim Dent	Councilman
William Berger	Project Architect of Record
Brian Parker	Architect's Project Manager

NOW THEREFORE, LET IT BE FURTHER RESOLVED by Jody Weaver, City Manager, that she has chosen the following criteria for the committee as a corporate body to consider in the selection of an Offeror submitting a proposal on this project along with the stated weighting of each of the criteria:

Price	50%
Offeror's Qualifications	25%
Time	25%

PRESENTED FOR THE RECORD to the City Council of the City of Port Lavaca by Jody Weaver, City Manager, on this 20th day of September 2021.

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

13. **Consider approval of TIPS Agreement # 190402 for the Enterprise Fleet management and authorize the City Manager to execute the following contracts subject to approval by the City Attorney. Presenter is Jody Weaver**
    - **Master Equity Lease Agreement**
    - **Amendment to the Master Equity Agreement**
    - **Maintenance Agreement**
    - **Maintenance Management and Fleet Rental Agreement**
    - **Agreement to Sell Customer Vehicles**
    - **Consignment Auction Agreement**

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 TIPS Agreement # 190402 for the Enterprise Fleet management and authorize the City Manager to execute the following contracts subject to approval by the City Attorney.

- Master Equity Lease Agreement
- Amendment to the Master Equity Agreement
- Maintenance Agreement
- Maintenance Management and Fleet Rental Agreement
- Agreement to Sell Customer Vehicles
- Consignment Auction Agreement

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

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 award of construction contract for renovations to the South Pacific Depot. Presenter is Jody Weaver**

Interim City Manager Weaver advised Council that for this project, the city has $65,575.00 remaining of the 2020-2021 Capital Improvements Projects (CIP) budgeted funds and $125,000.00 in the 2021-2022 CIP budgeted funds, for a total of $190,575.00.

Weaver said that Lynn Engineering recently completed bid documents for the Renovations to the Southern Pacific Railway Depot and staff began advertising for bids and conducted a mandatory pre-bid conference on July 8. Due to rain, a second mandatory pre-bid was held on July 27 and the bid date was postponed to August 31 at 3:00 p.m. Two (2) bids were received.

The Base Bid includes new siding and trim, new windows, New door, new cornices, a new soffit for the east end, and a complete reroof using 19/32" CDX and Enviroshake shingle system to provide the appearance of cedar shingles.

Alternate #1 is to reroof with 7/18" OSB and 30-year architectural shingles instead of the Enviroshake. Alternate #2 is to replace the outside deck area.

The Apparent Low Bidder is Barefoot Construction.

The Base Bid and Alternate 2	$	189,820.00	* Enviroshake
The Base Bid + Alternate 1 + Alternate 2	$	162,720.00	* 30-year asphalt shingles

The Enviroshake shingles have a 50-year warranty and are rated for 180 mph (granted the building itself probably won'twithstand a 180-mph storm). Note that they are installed on thicker plywood.

If we go with replacing the outside deck (Alternate 2), we will want to take the opportunity to do some fill and grading andpossible yard type drainage under the deck area. I do not have a scope established for this but may be $25,000.00 or so.

The Enviroshake provides the appearance of the cedar shingles of the original depot. I've attached a photo of some of the original cedar shingles that still remain, a copy of what the Enviroshake will look like and what the 30-year architectural shingles will look like.

I have discussed the bid differential with Mark Barefoot and he is completely comfortable with his bid as submitted.

Staff therefor recommends awarding a contract to Barefoot Construction in the amount of $189,820.00, being the Base Bid + Alternate 2. This will provide a more accurate appearance of the original depot roof (cedar shakes) but will require additional general fund dollars to provide area grading and drainage improvements.

If instead Council votes to accept the Base Bid+ Alt #2+ Alt #1 (architectural asphalt shingles), this would provide a savings of $27,100.00 which should pay for the grading and drainage improvements.

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 award of construction base bid plus Alternate 2, for renovations to the South Pacific Depot, to Barefoot Construction in the amount of $189,820.00 a copy which is on file in its entirety, in the office of the City Secretary.

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

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

15. **Receive Comprehensive Plan 5-Year Review Report. Presenter is Jody Weaver**

Interim City Manager Weaver presented Council with the Comprehensive Plan 5-Year Review Report, a copy is on file in the office of the City Secretary, in its entirety.

No action necessary and none taken.

16. **Consider recommendation of the Planning Board for approval of the Dry Tinder Square Replat being all of lots 1 and 2 of block 1of the Rafei Subdivision, Calhoun County, Texas. To replat 2 lots into 3 lots. Located on Bauer Street, north of Austin Street. The property identification numbers for this replat are as follows: PIN 86471and PIN 86472. Presenter is Jessica Carpenter**

Development Services Director Carpenter advised Council that the applicant has adhered to the proper subdivision replat application submittal and review procedural process prior to presentation before the Planning Board.

The intent of this replat of lots 1 and 2 of block 1 of Rafei Subdivision is to replat 2 lots into 3 lots. The purpose is to develop each of the three lots with a 4-unit multi family structure on each lot. The proposed development is 0 .62 acres and will have a total of 12 units.

The proposed medium-density four-plex residential townhome development preliminary site plan does display setbacks and the structures do appear to meet minimum setback requirements. The development team has participated in a predevelopment meeting with city staff and the terms of development were discussed for adherence.

The Planning Board and staff recommend approval of this request.

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

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 the Dry Tinder Square Replat being all of lots 1 and 2 of block 1of the Rafei Subdivision, Calhoun County, Texas. To replat 2 lots into 3 lots. Located on Bauer Street, north of Austin Street. The property identification numbers for this replat are as follows: PIN 86471and PIN 86472.

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

17. **Consider recommendation of the Planning Board for approval of a 3-lot final minor plat, Howlett's Subdivision. Generally located at the northeast corner of Austin Street and Henry Barber Way. The legal description for this parcel is A0137 SAMUEL SHUPE, TRACT PT 54, ACRES 3.671. The property identification for this site is 40677. Presenter is Jessica Carpenter**

Development Services Director Carpenter advised Council that the Howlett's Subdivision final plat is a 3.671-acre parcel subdivided into three (3) lots. Lot one being 0.35 acres and has an old gas station on the site. Lot two being 0.53 acres and has two metal buildings. Lot three, being 0.46 acres and has a manufactured home on site. All structures exist and have been on site for a long duration.

The final plat represents a 60' access and fire lane easement for lot 2 and lot 3 which are landlocked lots. The 60 ft. access and fire lane easement meets access easement requirements. Access and Fire Lane easement is not required to be improved to city private road standards. However, if future permits are needed, the access easement/fire lane must be improved to city road standards. The remainder parcel will require platting prior to sale or issuance of a permit.

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 recommendation of the Planning Board and staff, Council hereby approves a 3-lot final minor plat, Howlett's Subdivision. Generally located at the northeast corner of Austin Street and Henry Barber Way. The legal description for this parcel is A0137 SAMUEL SHUPE, TRACT PT 54, ACRES 3.671. The property identification for this site is 40677.

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

18. **Consider recommendation of the Planning Board for approval of a conceptual multifamily apartment complex. To be located on Alcoa Drive also known as FM 1090. The legal description for each lot is A0137 SAMUEL SHUPE, TRACT PT 52, ACRES 7.02and 0137 SAMUEL SHUPE, TRACT PT 52, ACRES 6.96. Property identification numbers are 40462 and 90212. Presenter is Jessica Carpenter**

Development Services Director Carpenter advised Council that the applicant is proposing a multifamily apartment complex. The site location is currently not platted and is vacant land. The preliminary density is anticipated to be 75 to 150 units. This is contingent upon if the developer can purchase both lots or just one. One of the lots is currently owned by the church that is adjacent to this conceptual apartment complex location. The applicant has already approached the church to consider selling the additional lot needed to attain the 150-unit density. The church is considering the offer and may require a reconfiguration of the lots under the platting process to appease both the church and the apartment complex developer. The Future Land Use map designates this parcel as high density residential and mixed use. Therefore, the proposed apartment complex is complaint with the Future Land Use map.

The Planning Board and staff recommend approval of this 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 the Planning Board and staff, Council hereby approves a conceptual multifamily apartment complex. To be located on Alcoa Drive also known as FM 1090. The legal description for each lot is A0137 SAMUEL SHUPE, TRACT PT 52, ACRES 7.02 and 0137 SAMUEL SHUPE, TRACT PT 52, ACRES 6.96. Property identification numbers are 40462 and 90212.

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

19. **Consider recommendation of the Planning Board for approval of a Variance Request for the proposed Prosperity Bank sign. The variance request is for a 75 ft. high freestanding pole sign with a 360 sq. ft. surface area. This sign will be located at 1107 N SH 35 on the Prosperity Bank property. Presenter is Jessica Carpenter**

Author's Note: There is a typographical error. Agenda item should read:
"*Consider recommendation of the Planning Board for ~~approval~~ DENIAL of a Variance Request for the proposed Prosperity Bank sign. The variance request is for a 75 ft. high freestanding pole sign with a 360 sq. ft. surface area. This sign will be located at 1107 N SH 35 on the Prosperity Bank property*"

Development Services Director Carpenter advised Council that the Prosperity Bank sign variance request is for a 75 ft. freestanding pole sign with a 360 sq. ft. surface area. The request is 50% larger than the sign code maximum surface area square footage of 180 sq. f.t, and more than 50% greater than the sign code maximum heigh of 20 ft. The current freestanding pole sign was originally permitted at a height of 25 ft. back in 1999 for the former property owner - First Capital Bank. In 2005, Prosperity Bank was permitted to replace the 50 sq. ft. surface area sign from the former First Capital Bank to Prosperity Bank but the existing 25ft. freestanding pole sign was not altered.

Prosperity Bank's hardship for this location and the need for the increased height and allowed square footage on the pylon sign, is without approval on the size requested, Prosperity Bank will lack visibility and not be able to fairly advertise their business with the neighboring competition and businesses. In addition, just as the neighboring Whataburger, this site has severe visibility issues due to the power lines on the property. Prosperity Bank would like to increase the height of the pylon to 75ft. overall height pylon with approximately 360 sq. ft. main-id cabinet due to the proximity of the highway and to give their customers better visibility of the location.

In June of 2016 the City Council approved the Whataburger variance for the 75 ft. freestanding pole sign with a 355 sq. ft. surface area. Consideration was given to this variance, as this sign dimension was the prior Whataburger sign dimension in their former location. Therefore, it was reviewed with a legal nonconforming use intent. In August of 2014 the City Council approved a variance for the Port Lavaca Ford Dealership requesting to place a sign that is 47.5 ft in height.

Planning Board and Staff recommends denial of this variance request for the proposed Prosperity Bank sign. The variance request is for a 75 ft. high freestanding pole sign with a 360 sq. ft. surface area.

This sign will be located at 1107 N. SH 35 on the Prosperity Bank property. The request is 50% greater than the sign code maximum surface area, and more than 50% greater than the sign code maximum height.

Approving this variance request sets a precedent for future requests for signage proposals with signs 50% larger than the sign code maximum surface area square footage of 180 sq. ft., and more than 50% greater than the sign code maximum freestanding pole height of 20 ft.

If consideration for a variance approval is given staff recommends the following for review:

- Designation of a percentage above the maximum free standing pole height of 20 ft. as per sign code and/or a percentage above the maximum sign surface area square footage of 180 sq. ft. that best aligns with the SH-35 corridor and the aesthetic vision for the city Gateway in this location.
- Designation of a compromise for a pole height and sign surface area square footage that fits the SH-35 commercial corridor for signage now and for future growth and development, as well as the aesthetic vision for the city Gateway in this location.

The Planning Board and staff recommend denial 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 the Planning Board and staff, Council hereby denies this variance request for the proposed Prosperity Bank sign, as presented.

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

20. **Consider recommendation of the Port Commission for a new lease with Something More Media at Nautical Landings Marina. Presenter is Jody Weaver**

Interim City Manager Weaver advised Council that the current lease for Something More Media (Suite 4 Nautical Landings Office Building) expires on September 30, 2021. The current lease had a 2-year term with a one-year option to extend and annual adjustments per the MCI. Tania French is currently paying $484.36/mo plus $30.00/mo for electricity. I prepared the attached draft Lease and presented it to the Port Commission for comment and recommendations to Council. The Standard Office Lease Document used was prepared by City Attorney Odefey. I had met with Tania and discussed that her rent would require an increase to compare to other rents being collected in the complex. Shehad told me she would be comfortable with up to $125.00 a month increase, which is 24%. The proposed lease includes the following:

Electricity: From research that Harbor Master Rudellat has done, the meter that includes the electricity for this Suite, also includes the electricity for Edwards Jones (Suite 3) and the electricity for the Day Room.

The A/C for the Day Room is on a different meter, but this meter includes the Day Room Lights, plugs, Refrigerator, Washer and Dryer. On average we are paying $268.00/month for this meter. ThisSuite accounts for approximately 25% of the area of the Day Room, Suite 3 and Suite 4. There is nodefinitive way to determine how much each tenant is using, so I am proposing we agree to a fixed amount of $68.00/month. This is an increase of $38.00 over what she is currently paying. (This amount correlates to the 11 cents per sf cost that Suite 2 pays for electricity. Suite 2's meter is not combinedwith any other space).

Rent *(622* sf): Suite 4's current rate is $0.78/sf. Edward Jones and Bay Ltd are paying $1.05/sf, although the latter's lease ends on October 30, so will require a new lease next month. Spiretek is about $1.17/sf without the electricity and this lease also expires at the end of October. Knowing that the market rate may be as much as $1.17/sf, but also knowing Council does not favor making large increases at one time and also trying to target an approximate $125.00/month increase overall forSomething More Media, I am proposing a $1.00/sf rental rate for this unit, but offering a discount of $50.00 a month to Something More Media to account for the following circumstances:

> *for the convenience of the City, Tania uses her office to stage a variety of materials and supplies used for various City events throughout the year and also she serves as a backup to Harbor Master Rudellat in handling the conference room rentals and other tenant needs from time to time. (With the discount, this is $0.92/sf). Should the situation change and the reasons for the discount are no longer applicable or valid, the discount will be revoked.*

In Summary:

- New monthly rent payment = $572.00 ($622.00 x $1/SF - $50.00. (This is 18% increase to Rent).
- New monthly electric cost = $68.00 (this is a $38.00/mo increase
- Total $640.00 (this is a $125.64/mo increase or 24.4%).
- Rent shall be adjusted annually during term of lease, per MCI, 2% min and 5% maximum.
- Electric cost will be adjusted as may be required by any percentage increase in the KWH cost, whichis currently at 0.03883/KWH.

Port Commission Recommendation:

- The Port Commission concurs with the $1/sf and the $68.00/month for electricity ($690.00/month) but doesNOT recommend any discount be offered to the rent.
- ($690.00/month equates to a 34% increase).
- The Port Commission recommends a one (1)-year lease with a one (1)-year option, so that the City may make market adjustments on a more frequent basis if the market warrants.
- If Tenant shall holdover following expiration of the lease, Tenant shall pay the sum of 150% of theBase Rent per month for each month of holdover.
- Language regarding Default by Tenant/Landlord's Remedies be amended to remove mention of Landlord having to sue (D.11).

City Manager Recommendation:

- I recommend approval of a budget amendment to reduce the amount that the Port Revenue Fund contributes to the General Fund Administration by $600, being equal to the $SO/month discount to the Suite 4 rent.

- *To offer a bit more stability for the tenant and offer a compromise between the Port Commission and the tenant, I recommend a two (2)-year lease with a one (1)-year option which is the same as the current lease. Note: the lease provides language for an annual increase per the MCI with a minimum 2% and maximum 5%.
- *If Tenant shall holdover following expiration of the lease, Tenant shall pay the sum of 125% of the Base Rent per month for each month of holdover.
- *After consult with Anne Marie, it seems that the Language of Section D.11 of the Standard Lease is standard language for such a lease and she does not recommend changing it. I concur. Note: that the language provides several avenues to the City to Remedy a default - it does not require City to sue.

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 a new lease with Something More Media, Suite 4 at Nautical Landings Marina, for a base rent of $640.00 per month (includes utilities) for 24 months, commencing on October 1, 2021 and terminating on September 30, 2023 with a one (1) year option to extend, upon 90 days advance written notice. A copy of this lease is on file in the office of the City Secretary, in its entirety.

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

21. **Consider Urban Engineer's Task Order #23 for Brooks Wastewater Lift Station Replacement. Presenter is Wayne Shaffer**

Interim City Manager Weaver advised Council that the City has budgeted $300,000.00 to construct a replacement for the Brooks Lift Station. In the January 2020 Sanitary Sewer Lift Station Assessment Report, prepared by Urban Engineering, the Brooks Lift Station was listed as being in a "unsafe/very poor condition," with a total replacement recommended. The new lift station will be designed with added capacity for growth. The Brooks Lift Station is located in City Park on Half League Road.

Urban Engineering has submitted a Task Order in the amount of $2,800.00 for the topographic survey work and $30,000.00 for the design, bid documents, and construction administration.

FINANCIAL IMPACT:
This project is budgeted for in the 2021-2022 fiscal year budget. It will take several months to complete the design and bid documents before bidding and construction can begin.

Staff recommends approval of Task Order #23 to Urban Engineering's Professional Services Agreement dated 11.13.2017, in the amount of $32,800.00.

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 Urban Engineer's Task Order #23 for Brooks Wastewater Lift Station Replacement Project, in the amount of $32,800.00.

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

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

22. **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 City Council would take a recess at 8:29 p.m.

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

23. **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 10:02 p.m. and there would be no action taken with regards to matters in closed session.

IX. ADJOURNMENT

Mayor asked for motion to adjourn.

Motion made by Councilman District 6 Barr, 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

Meeting adjourned at 10:02 p.m.

These minutes were approved on October 11, 2021.

Jack Whitlow

Jack Whitlow, Mayor

ATTEST:

Mandy Grant

Mandy Grant, City Secretary