

**MINUTES
REGULAR CITY COUNCIL MEETING
OCTOBER 19, 2021 – 6:00 p.m.**

PRESENT: Mayor Wyman Williams
Mayor Pro Tempore Anthony Henry
Council Members: Stephanie Muller, Teddy Reel, and Beckey Thompson
City Manager Howdy Lisenbee
City Attorney Charles Anderson
Director of Administrative Services Molly Jacobsen
Finance Director Jamie Campbell
Director of Public Utilities TJ Jones
Fire Department Captain Joe Pretre

ABSENT: Director of Public Safety Chris Bassham

1. Call to Order.

Mayor Wyman Williams called the meeting to order at 6:00 p.m.

2. Invocation.

Mayor Wyman Williams asked the audience for a moment of silence.

3. Pledge of Allegiance.

Mayor Pro Temp Anthony Henry led the Pledge of Allegiance.

4. Consent Agenda.

a. Acceptance of Minutes:

- City Council Regular Meeting Minutes-September 21, 2021

b. Consider and Take Action on:

- Approval of the FY 2022 Hunt County EMS First Responder Contract between the City of Commerce Fire Department and Hunt Regional Hospital District.
- Approval of the 2021 Hunt County Fire Protection Agreement.
- Motion Authorizing Appointment of Carolyn Trezevant to the Planning & Zoning Commission.

Council Member Beckey Thompson made the motion to approve the consent agenda as presented.

Mayor Pro Temp Anthony Henry seconded the motion, and the vote carried unanimously.

5. Presentation to City Council by members of the Public. (To be conducted as close to 6:05 p.m. as possible with a three-minute limit per person. Public Comments will cease at 6:20 p.m.) This period is reserved for citizens to discuss items not on the listed agenda. The response to Public Comments will be limited to: 1) A statement of fact or policy; 2) Direction to take up the issue with a city staff member; 3) An offer to place the item on a future Council Agenda.

Dr. David Giles, a resident between Commerce and Campbell on Highway 24, spoke to the Council about a proposed plan for a solid waste transfer facility to be constructed on Hwy. 24, noting the permit number is #2411. The facility is proposed to be constructed by Josh Bray, a resident of Paris, Texas, who owns and operates Sanitation Solutions and has contracts with some 52 cities around Commerce and Campbell. He noted that Mr. Bray is also the Chairman of the Paris Economic Development Corporation, which is well known in the northeast part of Texas.

Dr. Giles stated that Mr. Bray has approached the Texas Commission on Environmental Quality and has made a proposal to obtain a permit. The facility is supposed to initially operate with one million pounds of garbage being brought to that facility. The facility would be constructed with a large concrete slab where the one million pounds of garbage would be put on that slab and compacted down and the liquid then

1 extracted. After the liquid is extracted, the garbage would be loaded back on the garbage trucks and driven
2 on Hwy. 24, through Commerce, into Paris and into a landfill that he owns in Blossom, Texas.
3

4 Dr. Giles said that he had spoken with the Hunt County Judge and Hunt County Commissioner Harrison.
5 Both of them agreed to petition the Texas Commission on Environmental Quality to have a public hearing
6 and meeting related to the subject matter. However, the only way that a public meeting can be held is if you
7 register on the TCEQ website and put in the petition number, the application permit number, and a
8 comment or concern. You cannot speak at the public hearing unless you have submitted the information on
9 the website prior to the meeting. Mr. Giles gave the Council a handout with information about the website
10 and a link to the project application, which is a 260-page document. It also gave the contact person at the
11 Texas Commission on Environmental Quality who will evaluate the permit, as well as contact information
12 for Mr. Giles. Also included was information on how to contact the TCEQ general office. Dr. Giles has
13 also notified the president of the university, and he has notified Chancellor Sharp. Chancellor Sharp has
14 notified his environmental contacts, and this issue is being reviewed by the university as well.
15

16 Dr. Giles noted that obviously, this is a concern to nearby landowners because of the possible effects on
17 property values. Also, many of the people who live in the country do not have piped-in water; they live off
18 of well water. They are very concerned about the underwater ground contamination of their wells.
19

20 Another concern is that Hwy. 24 is a 75-mile per hour speed limit, with most people going 80 or 90. There
21 would be a substantial number of truckloads of garbage coming in and going out of the facility every day;
22 some people estimate between 80 and 90 truckloads a day. Those 80 to 90 truckloads would be driving
23 through Commerce on the way to Paris daily hauling waste.
24

25 Dr. Giles thanked the Council for their time and attention to this matter.
26

27 **6. Presentation of Proclamation honoring Mrs. Barbara Kersey for her time spent serving on the City**
28 **of Commerce Beautification Commission.**
29

30 Mayor Wyman Williams read aloud a proclamation honoring Mrs. Barbara Kersey who served for nearly
31 20 years on the Commerce Beautification Commission, giving of her time, talents and creativity.
32

33 A picture was taken of Mrs. Kersey and the City Council. Mrs. Kersey then said that it has been an honor to
34 serve nothing that she loves Commerce, and she appreciated the opportunity to serve the community.
35

36 **7. Discussion and Possible Action on the Duties and Composition of Board Members of the**
37 **Beautification Commission and the Animal Shelter Advisory Board Committee.**
38

39 Howdy Lisenbee, City Manager, addressed the Council saying that there have been a number of
40 conversations about the various boards and commissions that the Council has the responsibility to appoint
41 and oversee. He noted that there have been previous discussions about going through those commissions
42 one or two at a time to talk about their charge, review the ordinances that outline their roles and enable
43 them to make sure that we are still on the same page and all working together and heading in the same
44 direction.
45

46 Staff felt it was a good opportunity to discuss the Beautification Commission for two reasons. One is
47 recognizing the great service of Mrs. Barbara Kersey. Two being that we have had a number of recent
48 vacancies on this commission. Due to some of the stringent details within the enabling ordinance, we have
49 not been able to have productive meetings because we do not meet the strict criteria for a quorum when the
50 board is called together to meet. Therefore, staff wanted to talk through the makeup of this commission, the
51 charge of this commission and make sure the Council was still aware and comfortable with that mission.
52 Within the past couple of years, there was a change to the commission to increase the board members to
53 eight. To have a quorum, five voting members must be present at a meeting on a board of eight members.
54 The commission has only five members right now, so if we do not have 100% of the members present, we
55 would not have a quorum and could not lawfully meet and make decisions.
56

1 City Manager Lisenbee addressed City Attorney Charles Anderson saying that it was his understanding that
2 a quorum could be defined as a majority of the voting members being present. City Attorney Charles
3 Anderson replied that this was correct. City Manager Lisenbee said that staff would like to modify the
4 Ordinance to allow a more lenient definition of a quorum, so that we could actually have productive
5 meetings.
6

7 At one time, the City was able to get up to eight members on this commission, but that was short lived.
8 There may need to be some discussion as to whether eight is the right number. Sometimes it is hard to find
9 that many individuals that are willing to donate and invest their time.
10

11 Within the charge or the duties of this commission, City Manager Lisenbee pointed out Division 3, Section
12 2-81. Part of the charge of this board is to make the community a clean and attractive city. Manager
13 Lisenbee noted that this commission does an incredible job of promoting and trying to encourage residents
14 to do just that. The wording of Section 2-81 says that it is the commission's responsibility to make the city
15 clean and attractive, which is a little overwhelming. Next is something that we have been working
16 diligently on, which is establishing a process and criteria for the city beautification awards. There has been
17 a process in place for a number of years, but we felt like it needed to be more formalized. There is some
18 current discussion of an annual award but the commission does monthly awards right now, which has been
19 effective. The ordinance specifically calls for an annual award winner, but there has not been one. If that is
20 something the Council would like to see, we would need to address that.
21

22 Another question is that within the scope of the Commission's charge, which deals with aesthetics and
23 beautification and city rights-of-way, is included recycling. If the Council wants to leave that in their scope,
24 it is fine. However, Manager Lisenbee said that he would also like to point out that right now, recycling
25 programs are very hard to administer because the market for those materials is gone at the moment. It is
26 very challenging to be effective at a recycling program, and he would not want to have a group of
27 volunteers invest a lot of time into a topic that is ultimately frustrating because the industry is outside of
28 their control. If the Council wants that to still be part of the commission's charge, staff is willing to
29 promote that. There are just some frustrating conditions right now that would be hard to overcome in
30 maintaining a successful recycling program. Manager Lisenbee noted that staff would welcome a
31 conversation with the Council.
32

33 Council Member Stephanie Muller said that she had attended some of the meetings of the Beautification
34 Commission. She noted that they have really gotten moving on their process of how to pick the different
35 beautification sites, as well as coming up with incentives instead of just the sign. She further stated that the
36 people serving currently on the commission are wonderful to work with but she would like to see the
37 commission have help from other organizations, whom she thinks could also benefit the team. She
38 suggested having someone from the Louise Drake Garden Club as one of the members, also someone from
39 the Chamber of Commerce, and someone from the Downtown Alliance because there is a lot of growth
40 going on downtown. With the groups working together on the commission, they could come up with a plan
41 for the city, instead of just different pieces around town. She suggested that the commission could also have
42 someone from one of the churches serve and noted that someone even previously suggested that the one
43 group that is constantly out and about, watching and seeing what is going on within the City, is the city
44 sanitation group. She summarized that these are just some suggestions of people that could be added to the
45 team whilst still maintaining members at-large from the community.
46

47 Council Member Beckey Thompson added that by having these different groups working collaboratively,
48 the city would be better served. She also said that someone from the university could serve on the
49 commission as well.
50

51 Council Member Teddy Reel asked whose responsibility it is to make these recommendations and put them
52 into formal action. Council Member Stephanie Muller replied that she thinks that it is up to the Council to
53 come up with suggestions for additions to the commission and come up with a final agreement as to the
54 roles and composition of the Board.
55

1 Mayor Pro Tem Anthony Henry asked if the Council is looking to keep eight members or looking to adjust
2 that number. City Manager Howdy Lisenbee replied that if the member count were left at eight, where you
3 have five open positions, like there is right now, and then the additional three are selected from the
4 suggested groups, it will be easier keeping a slate of eight people. He added that he has some reservations
5 about city sanitation being on the commission because of the potential conflict of interest. They are
6 providing the City's solid waste services, and if they are recommending things that actually make them
7 more money, that could cause a problem. He recommended that the Council not put a representative from
8 city sanitation on the commission.
9

10 Mayor Wyman Williams asked the Council, "What if we were to empower our city manager to work with
11 the existing members on the Beautification Commission and then bring a proposal to the Council on a
12 restructuring of the Commission?" City Manager Howdy Lisenbee stated that a restructuring would need
13 to be an ordinance amendment anyway, so whatever we do would come back as a recommendation to the
14 Council before taking effect. Under the current ordinance, it specifically calls a quorum consisting of a
15 minimum of five voting members. City Manager Howdy Lisenbee addressed City Attorney Charles
16 Anderson and questioned, as the ordinance is written right now, can the Commission not have a meeting
17 now unless they fill those vacancies or have all five members present at a meeting? City Attorney Anderson
18 replied that that is correct. Until more people are appointed to the commission, it is kind of a state of being
19 in limbo. An alternative in the ordinance might be that the quorum is a majority of the existing members
20 attending the meeting. City Manager Lisenbee said that there had been three actual meetings of the
21 commission this year despite attempting monthly meetings.
22

23 Mayor Wyman Williams suggested that the City Manager provide meeting dates to the Beautification
24 Commission until there is a proposal presented to the Council.
25

26 Council Member Beckey Thompson asked if the Council could amend the ordinance tonight to change the
27 quorum to a majority of members of the commission attending a meeting. City Manager said that the
28 agenda item would require two readings to amend the ordinance and City Attorney Charles Anderson
29 agreed. City Manager Lisenbee said that he thinks the commission can meet, and if a full commission
30 meeting cannot be held, he could probably meet with the leadership of that commission and still come up
31 with some recommendations.
32

33 City Manager Howdy Lisenbee said that the second group to discuss is the Animal Shelter Advisory Board.
34 This board is a requirement of state law, so there are not a lot of changes that can be made to the board or to
35 the makeup of the board. He wanted to make sure that they discussed their role and brought some
36 clarification as staff and council move forward with the capital project for the animal shelter. Manager
37 Lisenbee noted that as you get into a capital construction project, at the front end of that project is the
38 planning stages. That is when you want as many ideas as you can come up with put into the realm of
39 possibilities that could exist for this facility. Then at some point, you have to lock down the scope that you
40 can get within your budget, and you have to stop making changes. He noted that from his experience, these
41 advisory boards can be incredibly helpful in determining what that scope is. He noted that at the last
42 meeting of this board, there was some discussion about going out and trying to find land donations on
43 behalf of the city. He said that we need to be cautious with that idea as it could potentially chew up a
44 significant portion of the budgeted funds for this project.
45

46 Council Member Teddy Reel added that it was just general discussion on where the property could be, and
47 whether or not it would be beneficial for both the city and the county. It was noted that staff do not have the
48 authority to go out and solicit land from city owners. Another part of the discussion was the design/build
49 process, which will be discussed more in depth later in the meeting.
50

51 City Manager Howdy Lisenbee added that typically these boards are advisory in nature; and that they do
52 not have the authority to commit city funds. The staff would not bring to the Council recommendations to
53 which the advisory committee is strongly opposed. Mayor Wyman Williams asked what the City Manager
54 thinks needs to happen. City Manager Howdy Lisenbee replied that at this point, staff is not making any
55 recommendations for this board. The Council in the past had requested discussion about the boards and

1 commissions. The Animal Shelter Advisory Board was included tonight simply due to the fact that we are
2 kicking off a capital project for a new animal shelter and this advisory board will play a role in that project.
3

4 Council Member Teddy Reel added that the board does have the responsibility to look at what the animal
5 shelter should require and the facilities that it should offer as they have experience in that realm.
6

7 No action was taken by the Council on this item.
8

9 **8. Discussion and Possible Action on a Resolution Adopting Hunt County's New Voting System**
10 **Equipment for Use by the City of Commerce.**
11

12 Molly Jacobsen, Director of Administrative Services, said that every year in January, the City contracts
13 with Hunt County Elections Administration Office for us to conduct elections with the county at a shared
14 cost for services and equipment. Recently, the Hunt County Commissioner's Court adopted a master
15 agreement for new voting equipment. Chapter 123 of the Texas Election Code requires that a municipality
16 formally adopt by resolution voting equipment when there is a change in equipment. Specifically, this
17 equipment is Hart InterCivic's Verity Voting 2.5 System. It has been certified for use by the Deputy
18 Secretary of State, as well as the Hunt County Commissioner's Court, so the last step in that process for us
19 to utilize this new equipment for our upcoming election in May would be that our governing body of the
20 City of Commerce formally adopt by resolution use of this new equipment.
21

22 Council Member Stephanie Muller made a motion to accept a Resolution Adopting Hunt County's New
23 Voting System Equipment for use by the City of Commerce. Council Member Teddy Reel seconded the
24 motion and it carried unanimously.
25

26 **9. Discussion and Possible Action on a Resolution by the City Council of the City of Commerce, Texas**
27 **Delegating its Authority to Determine Best Value in Purchasing to the City Manager and Providing**
28 **an Effective Date.**
29

30 Howdy Lisenbee, City Manager, stated that we recently adopted the Fiscal Year 2022 Capital
31 Improvements Plan (CIP), which included a number of fairly significant capital construction projects. He
32 talked about capital project delivery and some of the ways in which these projects can be done and why it is
33 important for the City to have all of the tools at our disposal to deliver effective projects. Fundamental to
34 this, Texas State Law changed a number of years ago to allow for what is called alternative project
35 delivery. Traditional project delivery is, at its core, a low bid value proposition. You have a defined project,
36 you hire an architect or an engineer, you go through an extensive design process where you figure out all
37 the functions and features that this project needs, the engineer and architects design it, and once the design
38 is finally completed, then you bid the project out, and you have to award it to the lowest responsible bidder.
39

40 Alternative project delivery recognizes that low bid does not always mean best value. When you use one of
41 these best value methods or alternative delivery methods, in your selection criteria, price is included, but it
42 is not the only qualifying criteria. It allows you to also use pertinent information like past experience. You
43 can review projects that these contractors have done before and whether those projects were successful.
44 You can look at the experience of their staff. You can have a design team that has hundreds of years of
45 experience, but they are sending you the rookies, so everybody on your team has got two or three years of
46 experience. That usually does not bode well for your job. You get to determine what combination of criteria
47 presents the best value for the community, and then you score those consultants and contractors based on
48 that best value approach. In best value purchasing, you are not required to take the low bid because low bid
49 is not always consistent with best value.
50

51 Traditional projects again are the "design-bid-build" process. Part of the risk of the traditional process is
52 that you do not get pricing until you have spent all of your time in design. If you are not careful, you can
53 waste a significant amount of time through that process. Another significant risk is change orders. The
54 worst part of that is that those change orders are non-competitive. When you take low bid, generally that
55 contractor already knows where they're going to make their money in that project because they have seen
56 the plans; they know what is in there that should be, and they can lowball portions of that plan. Once that

1 contractor gets awarded, now it is their project, and they can start submitting change orders. When they
2 submit a change order, they do not have to competitively price that. If you bid that piece out, and it would
3 have been \$10,000, they can instead charge you \$20,000 because they are not competing with anybody for
4 that change order. It creates a lot of bad blood; it creates a lot of heartburn for the owners, for the contract
5 constructors and for the designers. It can get really messy and end up in litigation when it comes to these
6 non-competitive change orders. There is a risk to your project to not hit budget for those reasons. The final
7 piece in this conversation is a lack of visibility in who the subcontractors are.
8

9 There are a couple of other alternative delivery processes. One is competitive sealed proposals. It is
10 structured very much like a traditional "design-bid-build." During the bidding process, you introduce best
11 value criteria. You do not have to take the lowest responsible bidder. You can take the best value bidder
12 that combines factors of experience, who their subcontractors are, what schedule they are proposing and the
13 price. You still run the risk of going through design and being completely out of your budget, but you do
14 not have to take the lowest responsible bidder. You can choose the best value, and there is still the risk that
15 you will have to go back and redesign the project if things do not come in where you want them.
16

17 The next method is typically called "construction manager at risk", also called "CMAR." Bidding actually
18 happens during the design process. For "construction manager at risk", you actually hire the general
19 contractor early on in the project while you are still designing. While you are working with the design team
20 to design whatever this facility is, your general contractor is there getting pricing throughout the entire
21 design process, usually at 30%, 60% and 90% of that design. You get good, solid pricing estimates on
22 whether you are within budget or not. When you have spent nine months on design, at the end of that
23 process, you really want to be able to move into construction and hopefully be within your budget. Having
24 that general contractor on the team early during the design process, gives you the ability to check pricing
25 throughout the design, and it reduces the risk of coming in over-budget. It still happens, but it significantly
26 reduces the risk of that happening.
27

28 The next component of construction manager at risk is what is called open book bidding. Because they are
29 bidding through the design process, the City or the owner is at the table every time they bid out the
30 electrical packet. Staff can see who the subcontractors are, and we get to help select who the subcontractors
31 are based on best value propositions.
32

33 The next piece, and perhaps one of the best tools of this project method, is called "guaranteed maximum
34 price" (GMP). As you go through this design process and reach the end of design, usually at the 90-100%
35 design milestone, the contractor will hard bid this job. For example, let us say it is a \$1,000,000 project,
36 and the contractor comes in and says I guarantee that I can do this job for \$900,000. We would bring that to
37 the Council, and we would lock in his contract at \$900,000. If he finishes that job, and it costs \$1,000,000,
38 the contractor eats that extra \$100,000 and the City does not have to come up with the extra money. He
39 guaranteed to deliver it at that price, so he must deliver it at that price. We do not pay anything more unless
40 we agree to increase it through a change order during the process. If he comes in under the \$900,000, let us
41 say at \$800,000, in theory, the City would get to pocket all of those savings. City Manager Lisenbee
42 continued by saying that typically when he does a project by this method, he would split the savings 50/50
43 up to some cap. With most of these projects, the contractors, figuring their profit based on a percentage,
44 and if they bid 3% profit on this project, then he would allow them to have savings up to another 1% but
45 not above that. It incentivizes the contractor to really watch his subs, to really manage the project and do
46 not let prices overrun. Again, it helps to improve your ability to come in timelier and under budget.
47

48 The final piece, which is very important in today's construction climate, is what is called early outbid
49 packages. As an example, the City is going to be doing a project with the library. There will be quite a bit
50 of brick and masonry involved in that project. Right now, brick is hard to find. Under a traditional project,
51 we would go through six months of design, then we would bid the project out and then the contractor
52 would place an order for bricks. If it takes six months to get the bricks, the project is essentially dead in the
53 water for those six months. However, if during the design process, we are using "design, build" or
54 "construction manager at risk" (CMAR), and we go ahead and determine what bricks we want and the
55 approximate quantity that we want, we could go ahead and place the order for the bricks while we are still
56 in design so that they are here in a more timely fashion for us to hit our schedule for construction.

1
2 These are the three main alternative delivery methods. Under Texas law, before any city can do one of
3 these projects, the city council has to have a finding that best value methodology is in the best interest of
4 our community for a project. Also, you have to make that determination for every single project. If you
5 know this and plan it in advance, you can work that into your schedule. However, this Council typically
6 meets once a month, so we have to wait another 30 or 60 days to have that conversation. State law allows
7 you to delegate that authority to the city manager or some other staff person of your choosing. This agenda
8 item tonight is a resolution asking Council to delegate to the city manager, the ability to make those best
9 value determinations so that staff can get some of these projects moving without having to come back to
10 the Council and again having this conversation for each and every single project.
11

12 Council Member Stephanie Muller inquired if when the City Manager and Staff are planning and doing the
13 best value, could Council be seeing copies of it without having to meet, but at least know what is going on.
14 City Manager Lisenbee replied that yes, the Council would see everything. He added that he cannot spend
15 any money without coming to the Council to get contracts approved. This will just speed up the planning
16 process to get it to the Council.
17

18 Council Member Stephanie Muller said that she thought that it was very important for everyone to
19 understand that this process would allow the Council to make sure that we are choosing the right person.
20 There are major criteria there so that we are not picking "Joe plumber" because he is the one that is in our
21 town, or because he is someone's best friend. City Manager Lisenbee stated that the Council would be able
22 to review all the criteria and all the scoring when it comes time to award contracts. If the Council is not
23 comfortable with how the criteria were used, then they would not approve the contract. He noted that
24 Council and staff will have many conversations as all of these projects progress; and Council will not see it
25 for the first time at a council meeting.
26

27 Mayor Pro Tem Anthony Henry made a motion to accept the Resolution and authorize the City Manager to
28 determine best value in purchasing. Council Member Stephanie Muller seconded the motion, and it passed
29 unanimously.
30

31 **10. Discussion and Possible Action on a Reimbursement Resolution Expressing the Official Intent to**
32 **Reimburse Costs of the Project related to the Commerce Public Library for the 2022 Certificate of**
33 **Obligation Issuance if those Costs are Paid prior to Receipt of the Proceeds of Issuance; and**
34 **Authorizing the City Manager or his Designee to Execute any Necessary Documentation.**
35

36 Howdy Lisenbee, City Manager, said that most of the funding for the projects that were authorized under
37 the FY 22 Capital Improvement Plan (CIP) would not be received cash-in-hand until probably May of
38 2022. Traditionally, we would wait until May of 2022 to start any of the CIP projects. There is a lot of time
39 between now and May that we could effectively be using to move these projects forward. Therefore, we are
40 proposing to start design of the library project. The next agenda item is actually the awarding of that design
41 contract, so we would be expending funds between now and May, with the cash proceeds of that funding
42 mechanism being here probably in May. Reimbursement resolution allows us to take some of the proceeds
43 of that 2022 Certificate of Obligation (CO) and pay back the design costs that we have expended up to that
44 point. Another good reason for doing this is because he wants to time our construction as closely as we can
45 to the issuance of these debt proceeds. Otherwise, you would be paying interest on money that is sitting in
46 the bank when the project is not ready for construction. If we can start design and get it wrapped up before
47 the proceeds show up in our bank account, we can start construction and not pay unnecessary interest if we
48 do not have to. Thus, this particular reimbursement resolution is just for the Commerce Public Library. The
49 component of that project is \$800,000, but as you will see in the next item, the design contract is \$69,000.
50 We will not be spending more than the value of that \$69,000 contract without authorization from the
51 Council, but it requires this reimbursement resolution for us to start now rather than waiting until May of
52 next year.
53

54 Council Member Beckey Thompson made a motion to accept the Reimbursement Resolution. Mayor Pro
55 Tem Anthony Henry seconded the motion, and it passed unanimously.
56

11. **Discussion and Possible Action on Award of Contract to Tim Rice McClarty for the 2022 Library ADA Renovations Project.**

Howdy Lisenbee, City Manager, stated that when a local government enters into a professional service agreement with an engineer or an architect, state law requires that that selection be made based on qualifications rather than based on price. We went through a process to determine qualifications for this particular architect, Tim McClarty, and found him to be the most qualified, considering that this project takes place on a historical, 103-year-old post office. It just so happens that Mr. McClarty spent about 35-years of his professional career with a contract with the United States Federal Government renovating old post office buildings. He has some very specific experience with buildings just like this, all over the Southwest region of the United States. We have been having some preliminary conversations with him about this project. He helped us establish the budget for this project, so the contract in front of Council for \$69,000 and some change is design services as well as construction administration for the library and ADA renovations project in the FY 2022 CIP. The schedule that is being proposed is that design will most likely wrap up around April and staff will most likely be bidding this construction in May and probably start construction in June or July of next summer. Staff is asking for an award of this contract to the architectural office of Tim Rice McClarty.

Council Member Stephanie Muller made a motion to award a contract to Tim Rice McClarty for the 2022 Library ADA Renovations Project. Council Member Beckey Thompson seconded the motion, and it carried unanimously.

12. **Discussion and Possible Action on an Ordinance Authorizing the Issuance of City of Commerce, Texas General Obligation Refunding Bonds, Series 2021, Levying an Annual Ad Valorem Tax, and Providing for the Security for and the Payment of said Bonds.**

Howdy Lisenbee, City Manager, said that a number of meetings ago, the Council authorized the City to move forward with the refunding issuance. The City took the 2012 Certificates of Obligation (CO) that were at a higher interest rate than what is available today. We agreed to refinance them to today's interest rate, and our financial advisor is here to update everyone on that process.

Jorge Delgado with Hilltop Securities, financial advisor to the City of Commerce, addressed the Council. He noted that he was here back in August, and walked the Council through a plan of finance to refinance a portion of their outstanding debt. He stated that he was directed to implement that financial plan. He provided a quick refresher of what has happened since as there were two goals of that plan of finance. Number one was to take advantage of the current interest rate environment, and number two was to take that service savings to open up some flexibility for new projects in the future should the city choose to do so. Mr. Delgado noted that the City has achieved both of those goals today and he has very positive results to share. He noted that Hilltop is very thankful to our staff who have been working with him the past couple of months and putting together a strong offering document and getting the City through the rating process. The City was affirmed by standard reports at an A+ bond rating. Staff does have to go through their process every single time because we are selling bonds in the open market. The report is out there, and there are a lot of similar items and positive comments about the city. Of note was the mention of a very strong budgetary flexibility, personal liquidity, great management, adequate management and adequate economy among other things. An A+ rating is a strong investment grade rating and today's flexibility of the City to refinance these bonds is a reflection of that.

This morning, Hilltop took bids for refunding of 2012 City bonds. The City intends to refinance Series 2012 GO bonds, which carry interest rates anywhere from 3 to 3.75%. The City intends to refinance a total of \$6,645,000. The Baker Group out of Oklahoma came in at a true interest cost of 1.636%. The next three bidders are very close to each other, but they are within 10 basis points of the Baker Group. Ten basis points is a big difference when you are talking about 6.6 million dollars, so that is a strong result. What does that mean in terms of savings? The City is looking at \$800,000 of debt service savings today. Should the Council approve the Baker Group's bid, we would be locking in those savings over the course of many years with those savings spreading anywhere between fiscal years 2023 to 2037, which equals around \$68,000 savings on an annual basis. From a present value perspective, we are looking at \$600,042. A big

metric that people use in the industry is present value savings percentages. Three percent is the threshold for deciding this is an effective refinancing and the City is looking at 9.67% today. That is a strong result as a reference point. Back in August, the City was looking at \$700,055 of debt service savings. We did have an increase in interest rates between August and today and still locked in \$45,000 more of debt service savings as of this morning.

Mr. Delgado congratulated the City and noted they were certainly monitoring the market, saw an up-tick in interest rates, but the City still had five bidders who really wanted City of Commerce paper, and showed up today. The financial advisors recommended to the City to lock in the Baker Group's bid, and close on this refinancing on November 17th. The City would be done with the 2012 bonds and replacing them with lower interest rate bonds. Again, flexibility is there in the future should the city decide to do something, this certainly opens up that capacity, and it works with the budget that Finance Director Jamie Campbell and City Manager Howdy Lisenbee have been working on with Hilltop over the past year and a couple of months.

Council Member Stephanie Muller made a motion to accept the Ordinance authorizing the Issuance of the 2012 GO refunding bonds, and the motion was seconded by Mayor Pro Tem Anthony Henry and the vote carried unanimously. A roll call vote on the motion was conducted:

Mayor Pro Tem Anthony Henry voted "Aye"
Council Member Stephanie Muller voted "Aye"
Mayor Wyman Williams voted "Aye"
Council Member Beckey Thompson voted "Aye"
Council Member Teddy Reel voted "Aye"

13. First Reading-Discussion and Possible Action on an Ordinance granting to Atmos Energy Corporation, its Successors and Assigns, a Franchise to Construct, Maintain, and Operate Pipelines and Equipment in the City of Commerce, Hunt County, Texas for the Transportation, Delivery, Sale and Distribution of Gas in, out of, and through said City for all Purposes; Providing for the Payment of a Fee or Charge for the use of Public Rights-of-Way; and Providing that such fee shall be in lieu of other Fees and Charges, Excepting Ad Valorem Taxes and Repealing all Previous Gas Franchise Ordinances.

Beth Dattomo, Manager of Public Affairs with Atmos Energy Corporation, stated that this Atmos proposal permits Atmos to utilize City rights-of-way, and in turn, Atmos pays a portion of that franchise fee back to the City. There are really no changes from the prior franchise agreement between the City and Atmos other than currently we have a 15-year agreement with the City, which will expire in December of this year. This proposal is for a 20-year agreement. According to the Railroad Commission, by which Atmos is governed, that is the maximum that they can ask for. Mrs. Dattomo explained that Atmos will always come back to the City if they receive any leeway with resolutions or anything where they can increase the gas franchise fee or anything like that which might be granted to them by the commission in the future noting that Atmos has done that with Commerce before. She stated that she believed the initial franchise fee rate was two percent, and then we moved to five percent.

Beth noted that Atmos is still proposing the five percent gross revenue back to the City paid quarterly, which is done now in January, April, July and October and noted that Atmos did not change any language in the current franchise.

Council Member Teddy Reel asked what the benefit was of going from a 15 to 20 year agreement. Ms. Dattomo replied that she did not know that there was a benefit or a negative to it. She noted that Atmos just likes to ask for the maximum so that they are not coming back frequently. She assured the Council that if there were any changes made by the state to the language of the franchise, Atmos would always come back and make sure that each city that they have a franchise with is aware of that.

City Manager Howdy Lisenbee added that we have had a number of good conversations with Atmos Energy recently, specifically about the street projects that the City has in front of it and coordinating with

Atmos for any infrastructure that they have. If they should need to move or upgrade infrastructure under our streets, they will do it at their cost, which is standard. If for some reason we wanted them to move it, and they did not feel it was necessary, then we would have to pay to have it moved. Ms. Dattomo added that she likes to promote that clause in the franchise agreement because it is pretty significant. If the City is doing any capital improvement projects under our Capital Improvement Projects (CIP) plan, or just projected developments, Atmos would like to have those plans as far ahead as we can provide them and Atmos has 30 days under our franchise agreement to provide a response to the City.

A motion was made by Council Member Stephanie Muller to accept the Ordinance authorizing the renewed franchise agreement with Atmos. The motion was seconded by Council Member Teddy Reel and the motion passed unanimously.

14. **Second Reading-Public Hearing and Possible Action on an Ordinance Authorizing a Change in Zoning from AG (Agricultural District) to PD (Planned Development District) for Property ID: #34145, Legal Description: A0913 RILEY I W, TRACT 15, ACRES 8.799, Property ID: 25335, Legal Description: A0388 GRILSKI, TRACT 18, ACRES 8.429, Property ID: 127763, Legal Description: A0913 RILEY I W, TRACT 15-1B, ACRES 10.678, Property ID: 112345, Legal Description: A1276 SAYLE N A , TRACT 31, ACRES 7.435, Property ID: 96043, Legal Description: A0913 RILEY I W, TRACT 15-1, ACRES 10.678, and Property ID: #127762, Legal Description: A0913 RILEY I W, TRACT 15-1A, ACRES 3, known as 315 Oak Lane Commerce, Texas 75428.**

A Public Hearing was opened by Mayor Wyman Williams at 6:15 p.m. No one came forward, and the Public Hearing was closed at 6:15 p.m.

Howdy Lisenbee, City Manager, advised the Council that an updated site plan had been submitted to show the phases that are being proposed for the development, as were discussed in last month's council meeting. Three phases are being proposed for the development. Each Council Member had already been given the new map and layout of the development.

Council Member Stephanie Muller made a motion to accept the Ordinance authorizing the rezone, which was seconded by Council Member Beckey Thompson. The motion carried unanimously.

15. **Second Reading-Public Hearing and Possible Action on an Ordinance Authorizing a Change in Zoning from AG (Agricultural District) to PD (Planned Development District) for Property ID: 34146, Legal Description: A0913 RILEY I W, TRACT 17, ACRES 26.2036.**

Mayor Wyman Williams opened a Public Hearing at 6:17 p.m. No one came forward, and the Public Hearing was closed at 6:17 p.m.

Mayor Pro Tem Anthony Henry made a motion to accept the Ordinance authorizing the rezoning of this property. The motion was seconded by Council Member Stephanie Muller, and it passed unanimously.

16. **City Manager's Report; discussion of same.**

- **Public Input Feedback**

City Manager Howdy Lisenbee said that he has permitted and operated transfer stations in the past, so he is familiar with how they are operated. He has also gone through contested case hearings with the TCEQ. It is his understanding, and staff will investigate this further, that the City would likely not have standing with TCEQ to object or call for a contested hearing case because we are not within the appropriate distance to be an affected party. However, we will look and see what our options are to provide comments on that permit. Most of the time, those permits and the hauling of those waste materials have some pretty strict guidelines from the state that they are supposed to follow. Not all trash haulers follow those standards and there is enforcement action that can be taken against them. Should that travel through our community become an issue, at that point, we would definitely be able to bring in the state and do some enforcement.

1 However, based on this permit application, he does not know that the City has standing, but we will
2 research.

3
4 • **Finance Update**

5 City Manager Howdy Lisenbee said that he wanted to publicly say that the A+ bond rating that Commerce
6 has is incredible, and most of that is a result of Finance Director Jamie Campbell's work that she has done
7 to improve our financial position over the time she has been here. We are very thankful for her expertise
8 and her services. He noted this was a job well done, and the City absolutely thanks her very much.
9

10 • **September 2021 Property Tax**

11 Finance Director Jamie Campbell addressed the Council stating that we have received our final property
12 tax for Fiscal Year 2021. She has updated the visual to demonstrate our adjusted tax levy for all of the
13 protests that have been completed and all the adjustments to all the home values because she wanted to
14 show that although we did not meet our budgeted revenue, we still met over 98% collections for our
15 overall adjusted tax levy. The original budget amount, compared to our adjusted tax levy, turns out to be
16 99%. Because there were so many adjustments to the tax levy this year, which is very out of the norm for
17 us, it was still very positive for the City. It was still over 98% of our tax levy, which is still high, and our
18 budgeted revenue was 99% of that adjusted tax revenue. Thus, even though we did not hit our budgeted
19 amount, if you look at the adjusted tax levy, it is still very good numbers.
20

21 The plan in the coming month is to start showing our delinquents and show where we are in our
22 delinquents. We have been selling off properties, and we have been getting funds for that previously
23 missed revenue.
24

25 • **October 2021 Sales Tax Budget**

26 Finance Director Jamie Campbell continued saying that starting in sales tax this year, so far, we are off to
27 a very positive start. We are higher than our budgeted number so far, and we are also higher this year
28 than we were in October. However, because we are right at where we were in November, she wondered if
29 this was not due to timing differences for when people are paying their sales tax. She is anticipating a drop
30 for next month. She received today the City's detailed sales tax report, so she has not had a chance to do
31 the analysis. She is hoping that in October, she will have two months' worth of analysis to show the
32 Council. She noted to keep in mind that this year in our budget, we increased our budgeted amount of
33 sales tax collections to \$1.15 million, which is an increase on our budgeted side. We are very positive
34 about that. Last year we actually hit \$1.27 million, so we are only budgeting
35 \$1.15 million and every year we have seen that increase a little bit. We are still being conservative with our
36 projected collections, but we have high hopes and are very excited about it. Hopefully, next month she
37 will have two months' worth of sales tax analysis for the Council.
38

39 • **Calendar of Upcoming Events and Meetings**

40 City Manager Howdy Lisenbee talked about the date for the December Council meeting. In December, the
41 third Tuesday of the month falls on December 21st, just a few days before Christmas. Some people like to
42 travel in advance of Christmas, so he asked if the Council wanted to move the December meeting to allow
43 some space between the meeting and Christmas. Mayor Wyman Williams asked what the proposed dates
44 were. City Manager Lisenbee replied the second Tuesday, instead of the third Tuesday. During discussion,
45 it was decided to rediscuss the December Council meeting date at the November Council meeting.
46

47 Molly Jacobsen, Director of Administrative Services, stated that due to recent findings of mosquitoes that
48 tested positive for West Nile Virus, the City Manager made the decision to continue spraying for an
49 additional week in October. Typically, the City sprays for mosquitoes from May through the end of
50 September. Spraying maps are available online at commercetx.org. As a reminder, the pesticides are
51 sprayed by our Public Works department, and they are certified to use the pesticide. It is relatively low
52 toxicity to humans; however, it can be toxic to fish and ponds. We ask that you cover your ponds and bring
53 any of your pet bowls inside before spraying, which commences at 7:00 p.m.
54

55 Early voting will be going on the next two weeks for the November 2nd election. Voting will be taking
56 place at City Hall from 8:00 a.m. to 5:00 p.m. Extended voting hours taking place today, and next

1 Thursday, October 28th, the City will have extended voting hours from 7:00 a.m. to 7:00 p.m. This voting
2 has eight constitutional amendments, the Hunt County jail proposition and two propositions related to the
3 school district. People may also vote at City Hall on Election Day, Tuesday, November 2nd from 7 am to 7
4 pm.
5

6 This Friday, October 22nd from 8:00 a.m. to noon, we will be providing, through a partnership with Hunt
7 Regional Medical Partners, flu shots as well as COVID-19 vaccines at City Hall. They are providing both
8 the first and the second Pfizer COVID-19 vaccine. People may preregister online where they can just
9 come in, get their shot and leave. Walk-ins will also be accepted that day. She continued that we will be
10 taking registrations for those vaccines through this Thursday, the 21st, at noon.
11

12 For our Commerce Parks and Recreation Department, who works with the Boys and Girls' Club,
13 basketball registration is going on now through October 27th for the upcoming basketball season. Children
14 may be registered for basketball by visiting commercerecreation.com, or you can stop by City Hall and
15 meet with our Parks and Recreation staff to complete a registration.
16

17 Next Saturday, October 23rd is the DEA National Drug Takeback. The City participates in this biannual
18 event in April and October. Director Jacobsen then read the following statement, which she found online:
19 "The National Prescription Drug Takeback addresses a crucial public safety and public health issue.
20 According to the 2019 national survey on drug use and health, 9.7 million people misused prescription
21 pain relievers, 4.9 million misused prescription stimulants, and 5.9 million people misused prescription
22 tranquilizers or sedatives. The survey also showed that a majority of misused prescription drugs were
23 obtained from family and friends, often from their home medicine cabinet." She ended by noting that this
24 is just a good reminder to go home, clean out your unused or unwanted prescription or over-the-counter
25 medications, and you can drop them off during this date and time. The City also has a mailbox at the
26 Commerce Police Department that is always available for you to drop off unwanted prescription drugs.
27 This keeps them out of the hands of our children and out of our water systems.
28

29 This Saturday, October 23rd, the Northeast Texas Children's Museum will be hosting an event called
30 Spooky Night at the Museum from 6:30 p.m. to 8:30 p.m. To buy tickets you can go to netxcm.com, or
31 you can swing by the children's museum.
32

33 On October 22nd and 23rd, the Culpepper and Merriweather Circus is coming to the Farmer's Market on
34 Bonham Alley. The Friday shows will be at 5:00 p.m. and 7:30 p.m., and the Saturday shows will be at
35 2:00 p.m. and 4:30 p.m.
36

37 The Chamber of Commerce will be hosting an event downtown called Trick or Treat Around the Square
38 on Sunday October 31st, 5:30 p.m. to 7:00 p.m. The children may wear costumes.
39

40 Hunt County CASA Organization is looking for volunteers. An informational meeting will be held on
41 October 25th at 5:30 p.m. at the old A. L. Day Building on Church Street. Anyone interested in
42 volunteering or participating or giving their time to CASA, please attend this meeting.
43

44 The Rotary Club is hosting their annual Waves of Glory on November 6th at 10:00 a.m. The ceremony will
45 take place at City Park located at Aldridge and Park Street. This is something the Rotary Club has done for
46 the last three years where they honor veterans and first responders during Veterans' Day week. They do a
47 demonstration of flags that is a beautiful event. The flags will be on display all week long.
48

49 The Commerce Public Library has their evergreens that come from the Pacific Northwest on sale. This is
50 their annual fundraiser. You can order them and also have them sent as gifts.
51

52 During the week of Halloween, October 25th-29th, there will be 20% off all pet adoptions at the Commerce
53 Animal Shelter.
54
55
56

1 • **Personnel**

2
3 • **Projects Update**

4
5 We have a number of projects in front of us. Regarding the fuel farm at the airport, we will be releasing
6 bids for that project in the next week or so. We were holding off on this project, hoping that construction
7 prices would come down. Speaking with the consultant, pricing for fuel related infrastructure continues to
8 rise, so we are going to go ahead and bid it out. We will probably award a bid in either November or
9 December depending on how pricing comes in, with construction to happen sometime after the first of the
10 year.

11
12 On the slide the red line indicates when we expect to have the cash proceeds from the Certificates of
13 Obligation that support our 2022 CIP. Most of the projects' construction will not happen until after that red
14 line. The ones that start before that mean we already have some funding in hand.

15
16 For the Fiscal Year 2022 street and drainage projects, we will be bringing the Council a design contract in
17 November. Freese and Nichols will start the design process for that work. Part of that work, especially the
18 maintenance things, we have designed fairly quickly. One thing to note about pavement construction is that
19 you cannot do that year-round. There is a seasonal window in which you can do construction pavement.
20 We will get as much done next summer as we can, but then we may have to pause and move into the
21 summer of 2023.

22
23 The consultants at the raw water motor control center rehab at Lake Tawakoni told him that they are
24 actually going to complete design in October. Then we have to start the approval process and the bid
25 process. Depending on how quickly the Texas Water Development Board moves, bidding approvals and
26 award probably will end up happening in the first quarter of 2022 with construction to happen sometime
27 after that. That funding is not tied to the Certificates of Obligation that will be issued in 2022.

28
29 The water treatment plant filter rehab is still in design. We will be wrapping up design of that project by
30 the end of the year. Again, we will have to get approvals from the state of Texas for that work. Our ability
31 to bid will be tied to the approvals for that project. We are at the mercy of the water development board for
32 many of those pieces.

33
34 The wastewater treatment plant pump station is under bid right now. We will open bids on October 28th.
35 We have at least three or four contractors that have told us that they plan to submit bids. We finally got all
36 the approvals from the state on that project. We will review the bids and most likely have a contract award
37 for the Council to consider at our November meeting.

38
39 Regarding the sanitary sewer overflow enforcement Supplemental Environmental Project (SEP), we are
40 under enforcement with the state of Texas for some sanitary sewer issues dating back a number of years.
41 They wanted the City to cut a check for \$54,000 as a penalty for being in enforcement. However, we asked
42 them if we could use that money on fixing the problem rather than paying them, and they agreed. When we
43 do the wastewater treatment plant pump station rehab project, that will satisfy the environmental concerns
44 and pull us out of enforcement. Therefore, the timeline for this is tied to the project above it.

45
46 We plan to continue the planning process of the new animal shelter through the end of the year, primarily
47 nailing down a location. It is important to remember that when picking a location for a project like this that
48 any money that you spend on buying the land is less money that you can put in the animal shelter. Also,
49 any money you spend extending water and sewer infrastructure to that location is less money that you can
50 put into the building. Therefore, when we pick a location, we want to keep that in mind. Hopefully, we can
51 get some land donations or use some land that we already own and minimize our site cost.

52
53 The Council approved the award of a design contract this evening, so we will kick off the design project
54 next week. We anticipate being through with design by April with the ability to start construction
55 sometime shortly after that. He said that it would be his recommendation that we use the construction

1 manager at-risk delivery process for this. That is why you do not see a bid block there because we plan to
2 bid that out during the design process.

3
4 The Ivory Moore Park improvements and the inclusive playground will most likely be joined at the hip.
5 We will be doing some planning between now and the end of the year and finding a playground vendor
6 that you can buy all of those through by board and HJC contracts. We will be bringing you some design
7 concepts by the end of the year. Sometime after the first of the year, we will see how we can start moving
8 forward.

9
10 For the splashpad we have some planning to do for the underground civil work that is required there. We
11 probably will not see construction until this summer for that project.

12
13 We will be doing some planning discussions for the downtown improvement between now and the end of
14 the year. We have a consultant from Freese and Nichols that we will be bringing to town.

15
16 We are still waiting on the state to open up the grant applications. We awarded that planning process to
17 Grant Works.

18
19 Those are a sampling of the projects that are in front of us.

20
21 • **Intergovernmental Events & Issues**

22
23 Council Member Stephanie Muller said that she wanted to compliment the Public Works department. On
24 the day when the No Parking signs were put up, she could not tell that they had not been there for a long
25 period of time. The work was done very well.

26
27 Mayor Wyman Williams stated that the Hunt Memorial Hospital District announced this afternoon that our
28 local emergency center will reopen October 28th, which will be welcomed. He also shared a letter dated
29 October 11th from the Texas Commission on Environmental Quality. After a visit from August 31 through
30 September 8, 2021, the report said that no violations are being alleged as a result of the investigation;
31 however, please see the enclosed additional issue. At this time your public water supply continues to merit
32 recognition as a superior system. Mayor Williams gave congratulations to everyone who has anything to do
33 with the production of water.

34
35 **17. Recess into Executive Session:**

- 36
37 • **§551.071 (1) and 551.071 (2): Consultation with Attorney on a matter in which the duty of the**
38 **attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct**
39 **of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act and Consultation**
40 **with Attorney regarding pending or contemplated litigation.**

- 41 • *Amir Rahman v. City of Commerce, Cause No. 85096, Hunt County*
42 • *Amir Rahman v. City of Commerce and Ned Muse, Cause No. 89253, 354th District Court*
43

44 Council Member Stephanie Muller made a motion that the Council recess into Executive Session. The
45 motion was seconded by Mayor Pro Tem Anthony Henry, and it passed unanimously. The Council recessed
46 into Executive Session at 7:35 p.m.

47
48 **18. Reconvene into Open Session: In accordance with Texas Government Code, Chapter 551, the City**
49 **Council will reconvene into Regular Session to consider action, if any, on matters discussed in**
50 **Executive Session.**

51
52 The City Council reconvened into Open Session at 7:47 p.m.

53
54 Mayor Pro Tem Anthony Henry made a motion to move forward with the direction of the City Attorney.
55 Council Member Stephanie Muller seconded the motion, and it carried unanimously.
56

1 **19. Adjourn.**

2
3 Mayor Wyman Williams adjourned the Council meeting at 7:49 p.m.

4
5
6 _____
7 Wyman Williams, Mayor

8
9 _____
10 Molly Jacobsen, City Secretary

11 _____
12 Date

13
14 10.19.2021.MINS