

MINUTES
REGULAR CITY COUNCIL MEETING
February 15, 2022 – 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

ABSENT: None

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 Tem Anthony Henry led the Pledge of Allegiance.

4. Consent Agenda.

a. Acceptance of Minutes:

- City Council Regular Meeting Minutes- January 18, 2022
- City Council Special Meeting Minutes-February 1, 2022

b. Consider and Take Action on:

- A Resolution of the City of Commerce City Council to Approve the Purchase of a Dewatering Box from Flo Trend, LLC for use by the Commerce Public Utilities Department and Authorizing the City Manager or his Designee to Execute any Necessary Documentation

Mayor Pro Tem Anthony Henry made a motion to approve the consent agenda as presented. Council Member Stephanie Muller seconded, and the motion 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.

No one came forward.

6. Presentation of COs series 2022 Plan of Finance by Hilltop Securities.

Jorge Delgado of Hilltop Securities stated that this is a plan of finance to fund a number of different projects that city staff have been preparing for in the city for a period of time. This is essentially a continuation of a year-long process of planning. Back in October, the city refinanced some debt and you locked in some nice savings. The goal was to lock in some savings and open up some room for financing projects, capacity and flexibility going forward.

A big piece of the plan entails funding. Mr. Delgado went through the general overview of the projects and noted he would defer to City Manager Howdy Lisenbee as to the specifics of details related to the street and sidewalk improvements, park improvements, municipal facilities and water and wastewater treatment plant repairs. These projects would be funded by the issuance of certificates of obligation. This would have two repayment sources. The bulk of the certificates of obligation is for the street and sidewalks, the park and the municipal facilities. The \$6,000,000 is to be repaid out of the City's debt service taxes, and there is an

1 additional component to be funded out of the water and wastewater system fund. The main goal was
2 planning to fund the \$6,000,000 from the city's debt service side without an impact to the City's existing
3 tax rate.
4

5 This would be a twenty-year repayment period. Mr. Delgado said that Hilltop Securities would go through
6 the rating process and work with the City staff to schedule a conference call in the near future. Noting that
7 financial advisors do that every time they issue debt in the open market. The expectation is that the City is
8 going to get a firm A+ on their upcoming bond rating. Finally, advisors would bid this out competitively as
9 they did last time. They would get the low bid and present that to the City. The evening of the April 19th
10 council meeting is when they are targeting the competitive sale. The next morning they would present the
11 City with the low bid, and at that point, the City would be taking formal action to lock in those rates. Then
12 they would set a closing date about four weeks later; and get it approved by the Attorney General's Office.
13 If they hit all those dates, the advisors would be closing on behalf of the City on May 17th.
14

15 **7. Discussion and Possible Action on a Resolution directing the Publication of a Notice of Intent to Issue**
16 **Certificates of Obligation.**

17 Director of Finance Jamie Campbell said that the City Council had for consideration this evening a notice
18 of intent to issue the previously mentioned certificate of obligation. That is just the notice that would be put
19 in the newspaper and on the City's website. By law, there are specific deadlines that have to be hit in order
20 to put the notice of intent lists out, the amount of money that the City is going out for, the dates, the
21 location and everything that it encompasses.
22

23 Bond Council did allow the City to add a clause to this resolution to allow for reimbursement. The City has
24 done a couple of projects in the past where it may have expended funds on the project prior to receiving the
25 proceeds. A reimbursement resolution allows the City to use some local funds to get it started and then pay
26 itself back with the proceeds from the issuance. For a couple of these projects, there are going to be some
27 equipment items that have such long lead times that it would be ideal to place an order early, at least before
28 proceeds from the issuance are received in May. Director Campbell noted that the City will, most likely,
29 have the cash in May, but if we want to place orders for some materials before May, this resolution
30 includes a reimbursement clause to allow the City to do that.
31

32 City Manager Howdy Lisenbee added that Bond Council did allow us to add a clause to this resolution to
33 allow for reimbursement. We have done a couple of projects in the past where we may have expended
34 funds on the project prior to receiving the proceeds, and a reimbursement resolution allows us to use some
35 local funds to get it started and then pay ourselves back with the proceeds. For a couple of the projects,
36 there are going to be some equipment items that have long lead times that we may want to place an order
37 early before May. We appear to likely have the cash in May, but if we want to place orders for some
38 materials before May, this resolution includes a reimbursement clause to allow us to do that. Staff
39 recommends approval of the resolution directing the publication of our notice of intent.
40

41 A roll call vote was made:

42 Mayor Wyman Williams voted "yay."
43 Mayor Pro Tempore Anthony Henry voted "yay."
44 Council Member Stephanie Muller voted "yay."
45 Council Member Beckey Thompson voted "yay."
46 Council Member Teddy Reel voted "yay."
47

48 The motion carried unanimously.

49 **8. Recess into Executive Session:**

- 50
- 51 • §551.071 (1) and 551.071 (2): Consultation with Attorney on a matter in which the duty of the
52 attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of
53 the State Bar of Texas clearly conflicts with the Texas Open Meetings Act and Consultation with
54 Attorney regarding pending or contemplated litigation.
 - 55 o Attorney General's Opioid Settlement
- 56

Council Member Stephanie Muller made a motion to recess into executive session. Council Member Teddy Reel seconded the motion, and it carried unanimously.

The council recessed into executive session at 6:10 p.m.

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

City Council reconvened back into open session at 6:45 p.m.

10. **Public Hearing-Discussion and Possible Action on a Resolution of the City Council of the City of Commerce, Texas Authorizing the Filing of the Texas Community Development Block Grant Program Application to the Texas Department of Agriculture and Authorizing the Mayor to act as the City's Executive Officer and Authorized Representative in all matters pertaining to the City's participation in the Texas Community Development Block Grant Program.**

City Manager Howdy Lisenbee referred the Council to the handouts that were available to be picked up at the door before the meeting began nothing that the City is required to make these handouts available to anyone, and it contains some information about this grant that we are applying for. The application is due on March 16th. Funding comes from the Community Development Block Grant (CDBG) which is administered by the Texas Department of Agriculture (TDA). This is a 90/10 grant meaning that if we are approved, the grant would fund 90%, and the City would only fund 10% out of local funds.

The second handout is a copy of an email between the City Manager and the consultants that are helping with administration of this grant. There are a number of different studies that are available through this grant and the City is not going after all of those individual studies. This is basically an update to the City's comprehensive plan. Manager Lisenbee noted that a local comprehensive plan is essentially a picture of "who do we want to be when we grow up, and how do we propose to get there."

Manager Lisenbee noted that the City is not going to do a street conditions study in this plan. The city has just recently performed most of that study work, so we do not want to duplicate those services. The City is also not choosing not to do a water system or a wastewater system study as those have also been done. Finally, we are not proposing to do a storm drainage study. We are not saying we do not have a storm drainage problem; as the city recognizes we have a significant storm drainage problem in this community. However, that study was done a number of years ago. We still have that data, and it is good data. Again, we do not want to duplicate those services. Everything else mentioned in the e-mail is definitely a conversation this community needs to have as we look toward the future.

A public hearing was opened at 6:48 p.m. No one came forward, and the public hearing was closed at 6:48 p.m.

Council Member Beckey Thompson made a motion to approve the Resolution. Council Member Stephanie Muller seconded the motion, and it passed unanimously.

11. **Public Hearing-Discussion, Consideration and Possible Action on a Request by Stephen Hudson, EST, Inc., for Approval of a Replat of Lots 9 and 10 Jenkins LR Addition, an addition to the City of Commerce, Hunt County, Texas, the Division of the properties known as 2112 Mangum St., 518 Knight St., 516 Knight St., Commerce, Texas 75428, Property ID: 70486, Legal Description: S3674 JENKINS L R ADDITION LOT 10B (N PT OF 9 & N65' OF 10) ACRES .2346 (AKA OT OF COMMERCE BLK 89 LT 10), into Lot 10R, Acres 0.24, Property ID: 70485, Legal Description: S3674 JENKINS L R ADDITION LOT 9A (S PT OF 9 & S65' OF 10) ACRES .3277 (AKA OT OF COMMERCE BLK 89 LT 9) into Lot 9A-R 0.13 Acres and Lot 9B-R 0.12 Acres, A-2 Apartment Dwelling District. Zoning Variance Request to the Minimum Lot Area, Lot Depth and Rear Yard for A-2 Apartment Dwelling District.**

1 City Manager Howdy Lisenbee stated that we received a request to replat two lots. There are three existing
2 homes that sit on two, legally defined lots. These were constructed several decades ago, so it is a pre-
3 existing situation. Traditionally you want one home or structure on one legally defined lot. The request
4 asked that the two lots be broken into three lots to more accurately reflect how the land is being used.
5

6 Also, regarding the lot with two houses, if the owner wanted to sell one home and keep the other, they
7 could not unless they are on their own legally defined lot. The only complication is that when we redraw
8 the lines the way the surveyor has done it, it immediately creates what is called a "non-conforming use."
9 Our zoning codes have setback requirements that space homes and structures away from each other and
10 away from property lines. There is no way to replat this without violating those setback requirements. Staff
11 went to the Planning and Zoning Commission to get approval for the replat and to allow a variance for
12 these structures. The Planning and Zoning Commission voted unanimously to approve this replat. The next
13 step is to come to the City Council for approval. Staff recommends approval of the replat as it has been
14 designed and presented by the surveyor.
15

16 State law requires that we send notifications to the property owners that are around this area, and the state
17 is pretty strict on what we can and cannot say in those notifications. One of the things that we have to do is
18 identify what is the current zoning of these lots. The zoning that was applied to this property a number of
19 years ago is called "A-2" or Apartment Zoning, which allows for multi-family use. These three structures
20 are not multi-family homes and they are not apartments. At this time we have received no request or
21 indication for the construction of apartments, but some of the surrounding property owners were confused
22 because the City is replating in an apartment zone and they thought that meant someone was going to build
23 apartments. That is not the case currently; and the City has not received any application for building
24 permits for an apartment in this particular area. They are just wanting the legally defined lots to reflect the
25 structures that are already there.
26

27 A public hearing was opened at 6:53 p.m. No one came forward, and the public hearing was closed at
28 6:53 p.m.
29

30 Mayor Pro Tem Anthony Henry made a motion to approve the replat. Council Member Beckey Thompson
31 seconded the motion, and it passed unanimously.
32

33 **12. Discussion and Possible Action on a Resolution of the City Council of the City of Commerce**
34 **authorizing the Mayor to execute Texas Subdivision and Special District Election and Release Forms,**
35 **for Settlement with Endo/Par and Teva and any future release forms as part of the Global Opioid**
36 **Settlement led by the Texas Attorney General and Authorizing submission of Settlement**
37 **Participation Forms, and Authorizing the Mayor or his designee to execute necessary documentation,**
38 **and providing for an Effective Date.**
39

40 City Attorney Charles Anderson said that this is coming to the Council as a request from the Attorney
41 General's Office. The Texas Attorney General's Office is representing the State of Texas and the counties
42 and subdivisions of this state.
43

44 In regard to the opioid litigation, which is not just in Texas but across the country, the particular settlement
45 before Council involves Johnson and Johnson Company, which Council has looked at before, as well as its
46 distributors, such as Endo and Teva. This approval of a settlement will put the City of Commerce in line for
47 the settlement that has been negotiated. It could involve payment to Commerce under the term sheet that
48 the Attorney General published of up to \$33,869.00 to be used for various things in what we might call "the
49 war on drugs." This would include public education training for our first responders as well as materials, to
50 outfit an ambulance to respond to overdoses from opioids and things of that nature.
51

52 If Council approves this Resolution, the city attorney will let the Attorney General know that we are on
53 board with the settlement and for whatever settlement they are able to get.
54

55 City Manager Howdy Lisenbee added that for the record, staff recommends that we do participate and get
56 any money that we can out of this settlement.

Council Member Stephanie Muller made a motion to approve the resolution. Mayor Pro Tem Anthony Henry seconded the motion, and it carried unanimously.

13. Discussion and Possible Action on a Resolution of the City of Commerce City Council to Approve the Purchase of a Generator from Clifford Power for use by the Commerce Water Treatment Plant and Authorizing the City Manager or his Designee to Execute any Necessary Documentation.

City Manager Howdy Lisenbee said that in February of last year during the snowstorm, not just Commerce but most of the state of Texas lost power for a significant amount of time. Many municipalities and their water treatment plants at that point did not have backup power generators. Staff was already working on the design of a rehabilitation project for the filters at the treatment plant and asked our engineer to add components to allow for the addition of a backup power generator, noting that you cannot walk down to Home Depot and purchase a generator like this. Also, the plant was designed 70 years ago and was not wired electrically to anticipate the addition of a generator.

The engineering work has been completed and the design is done. The city had to submit it to the state; as you cannot touch a treatment plant unless the state gives you the thumbs up. The City was given permission in late December, at which point we started finalizing how we were going to approach this project. Staff is recommending that the City go ahead and purchase the generator, as it has been designed and specified and not wait for the general contractor. If we order the generator today, it is nine months away, and we would really like to have it in place before next February when winter can sneak up on us again. By placing the order now, it starts that construction process so that the generator can be built. We would have to wait another couple of months if we waited on the general contractor. Also, if we order the generator through the general contractor, they would just mark it up 10-20% and then sell it to us. We propose to cut out that markup. We have found the generator that meets the needs of our plant, as designed by the engineer. We have priced it out through a state buy board purchasing contract for \$106,912. That is way below the budget the engineer projected for the generator. We are asking permission to go ahead and make that purchase and place the order for the generator. When it comes in, the general contractor that we select will install it and get it running.

Council Member Teddy Reel made a motion to approve the purchase of the generator. Mayor Pro Tem Anthony Henry seconded the motion, and it carried unanimously.

14. Discussion and Possible Action on a Resolution of the City of Commerce City Council to Approve the Purchase of a Mini Excavator from HOLT CAT Texas for use by the Commerce Public Works Department and Authorizing the City Manager or his Designee to Execute any Necessary Documentation.

Finance Director Jamie Campbell reminded the Council that last month we brought to you a previously approved budget item for a tractor and boom mower for our Public Works Department, but we decided to pass on that purchase due to the ever-increasing price of that piece of equipment. Instead, we decided to bring this HOLT CAT mini excavator. Recently, the City had an old machine that stopped working and we are in dire need of replacing it. Currently, we have a long-term lease for a piece of equipment so that we can continue doing our day-to-day operations. This HOLT CAT machine which we are trying to purchase, is going through our buy board, which is a government agency purchasing agency. There is a 7 to 8-month lead time before we can get the machine. If Council authorizes this purchase, it is still under-budget of our original budget to purchase the tractor and boom mower which was \$88,500, and this machine comes in with an extended warranty at \$78,000. The machine would still be a five-year lease, which is what we were budgeting for in our original budget, yielding a cost savings of about \$10,000.

Council Member Teddy Reel made a motion to approve the resolution and purchase the excavator. Council Member Stephanie Muller seconded the motion, and it passed unanimously.

15. **Discussion and Possible Action on a Resolution Authorizing the Award of Contract to Heartland Park & Recreation, LLC for the Construction of Playground Improvements at Ivory Moore Park and City Park and authorizing the City Manager to execute all necessary documentation.**

City Manager Howdy Lisenbee said that during the budget process for this fiscal year, we adopted the 2022 Capital Improvements Plan (CIP). Some of the projects that were included in that plan were playground improvements to both City Park and Ivory Moore Park. Staff proposed and Council approved the development of what is known as an inclusive playground at City Park, which is a playground facility that is designed and constructed to allow accessibility for special needs and mobility needs children. Staff also proposed a project for Ivory Moore Park. That park has not received any investment in decades. The playground equipment is aged, and our insurance company does not like that style of playground anymore as it presents a liability. Therefore, staff is proposing to completely replace it with a brand-new playground and outdoor fitness equipment. Staff went through the TIPS state purchasing contract for this and worked with Sean Spencer at Heartland Park & Recreation, LLC. Further, we took these designs through the Parks & Recreation Advisory Board. After a series of meetings with them, the Parks Advisory Board voted unanimously to recommend these playgrounds, as designed, for approval to the City Council. Manager Lisenbee invited Sean to come up and explain to the Council what Heartland Parks & Recreation, LLC have designed and propose to build at City and Ivory Moore Park.

Sean Spencer addressed the Council saying that an inclusive playground is not only for children with mobility issues, but also for children who are on the autism spectrum. He noted that when you are dealing with mobility devices, getting a child in a wheelchair or walker up onto a playground is very difficult, so they aim to eliminate that challenge with a lot of ground-level play panels, textures, and musical instruments. He noted that they plan to provide sidewalk access and ties into the primary sidewalk, so you can go from your handicapped parking spot onto the sidewalk, and into the playground seamlessly without having to touch the grass. Mr. Spencer highlighted some features of the playground including a kind of cave in the bottom side of the play panel noting that this is a big factor because if children get over stimulated when they enter into a colorful, loud, vibrant playground, it is a place where they can decompress, watch to make sure everything is safe, and then they can enter the play space as they feel comfortable.

Both Mr. Spencer and City Manager Lisenbee noted that we are proud of the area they have designed and think that it is going to add a lot to the park and provide value to citizens who utilize it.

Council Member Stephanie Muller made a motion to accept the resolution and authorize construction of the playground improvements. Mayor Pro Tem Anthony Henry seconded the motion, and it passed unanimously.

16. **Discussion and Possible Action on a Resolution Authorizing the Award of a Design-Build Contract to Heartland Park & Recreation, LLC for the Design and Construction of a Splash Pad at City Park and authorizing the City Manager to execute all necessary documentation.**

City Manager Howdy Lisenbee said that also included with the 2022 Capital Improvements Plan was the development of and the construction of a new splash pad which is a water recreation facility. It is basically a playground with water. He noted that it is zero depth and thus does not require lifeguards and does not require staff to be present on a daily basis. It does provide a quality water recreation experience for our children that is seasonal in nature.

Manager Lisenbee noted that we chose to go with a design-build process which gives us a lot of flexibility and a tremendous amount of budgetary control. Working with a selection panel of some of our advisory board members and City staff, we all went through a selection process. Manager Lisenbee noted that there were seven different companies who submitted bids for the opportunity to do this splash pad project. Staff then narrowed down those seven applicants down to four and then conducted face-to-face interviews. Through that process, the selection committee chose Heartland Park & Recreation as the best value proposition for this project. This group is already going to be in town doing some playgrounds, as

1 previously mentioned, for the City. This will allow them to bring their expertise into the design and
2 construction of this splash pad facility that will also be at City Park.
3

4 One of the complicating factors is that the splash pad is going to be on top of the old swimming pool, so
5 staff is currently having geotechnical evaluations done so that we can factor that into the design. For how
6 the splash pad will go at this point, we have not yet designed the splash pad, so we do not have pictures to
7 show yet. Manager Lisenbee noted that the contract in front of Council is a design-build contract, so there
8 are some unique features to this that are different than traditional construction. He reminded the Council
9 that our budget for this project, as it was put in the Capital Improvements Plan is \$1,000,000. Staff is
10 actually proposing to slide a little bit of money away from the splash pad and beef up the Ivory Moore
11 playground project. Since we are proposing to work with Heartland Parks & Recreation on both of these, it
12 is easy to move some budget around, probably in the neighborhood of \$940,000 for this project, which is
13 still going to be one of the largest splash pads in this region of the state. Manager Lisenbee noted the splash
14 pad will be a regional draw and there will likely be people that come to Commerce to see and experience
15 this recreation.
16

17 Manager Lisenbee noted that there are a couple of decisions that we have made so far that are impactful.
18 He noted that typically, when you are doing a splash pad, some of the fear from users is, can my kids get
19 sick from this water? All of the cases that have had this happen, have been from splash pads which recycle
20 the water. He noted that if you are going to recycle the water, you take fresh treated water from the
21 distribution system that has all the appropriate chlorine residuals; and you spray it up in the air and onto the
22 surface; it goes down a drain; you recycle it back through a small water treatment plant; and then you re-
23 spray that same water. Facilities that have a failure in that secondary treatment are the ones that end up with
24 kids getting sick. Manager Lisenbee stated that we are not proposing to recycle any of the water. All the
25 water that goes through this splash pad will be fresh potable water that has all the appropriate chlorine
26 residuals through our drinking water. Once the water is sprayed, it hits the ground, goes into the drains, and
27 we are then going to use that water for irrigation within the park so that we can add landscaping and keep it
28 irrigated and healthy. This process saves probably \$200,000 on a project like this one.
29

30 Manager Lisenbee noted that the last piece of this for discussion tonight is that the Council is not
31 authorizing him tonight to spend \$940,000 on a splash pad. By approving this contract, Council is allowing
32 us to work with Heartland and its design team to start the design of this splash pad. We will subsequently
33 come back to Council with a guaranteed maximum price that is within our budget for the construction.
34 Council will then have opportunities to see the design; the community will have opportunities to give input
35 into that design. All that's being done this evening is authorizing a design-build contract with Heartland
36 Parks & Recreation to start this project moving forward. Manager Lisenbee noted that he cannot promise
37 that the City will have water for the kids to play in by this summer, but it is our goal to have something in
38 the ground by the end of this summer.
39

40 Council Member Stephanie Muller made a motion to accept the resolution and award the contract to
41 Heartland. Council Member Teddy Reel seconded the motion, and it carried unanimously.
42

43 **17. Discussion and Possible Action on a Resolution Approving a Task Authorization Order with Freese**
44 **& Nichols related to Downtown Improvements and Authorizing the City Manager to Execute all**
45 **Necessary Documentation.**
46

47 City Manager Howdy Lisenbee continued that one of the projects that was anticipated within this Capital
48 Improvements Plan was investments in downtown infrastructure. He noted that our downtown is
49 improving and there is some momentum and we've recently seen some economic life happen. However,
50 there are still some needs that are infrastructure related for our downtown. The bulk of this project will
51 most likely be repaving the parking lot that is currently known as the farmers' market area. As downtown
52 comes back to life, there is a need for more parking. The City owns that parking lot and it is not in great
53 shape. This project will allow us to put some money into and rehab that parking lot as well as potentially
54 install a larger metal multi-purpose pavilion. There is a wooden shed made of some wood poles and a
55 wooden roof that the farmers' market uses during the spring and summer currently. That structure would
56 come out and likely be replaced. Additionally, he noted, there are some sidewalk improvements that are

1 needed and some things that we need to do to create spaces for things to happen in our downtown.
2 However, before we proceed with any of that, we need a plan.
3

4 The City has been working with Freese & Nichols, and they have proposed a task authorization, one which
5 is part of an existing contract we have with them that allows us to do some master planning for our
6 downtown. This is a process by which Freese & Nichols and their team will come into the community and
7 have a series of meetings with stakeholders, with people that are in downtown or are invested and
8 interested in downtown and determine what the future looks like for our downtown area. Then we will
9 spend money in ways that move us in that direction. We do not want to spend money and create problems
10 in the future.
11

12 Alan Hendrick with Freese & Nichols addressed the Council. He said that their downtown plan is what he
13 would term a land use master plan. It is going to be a very lean and succinct plan that will be probably 45 to
14 50 pages long that will have some pictures, some maps and some diagrams. There will be a series of
15 meetings with the end goal being a kind of a chronological scope report that will have about 12 to 15 tasks
16 on it. Mr. Hendrick noted that we may propose the formation of an advisory committee that would have 6
17 to 10 people on it made up of elected officials, community leaders, Chamber of Commerce members or just
18 individuals invested in the community who can grasp and articulate a vision for the community.
19

20 The first task of this process would be to have a kickoff meeting. The second task would include the first
21 meeting with the advisory committee just to get introduction and ideas out on the table. The next task
22 would be building from existing materials, collecting materials, collecting maps and collecting information.
23 Then we would have a discussion with the advisory committee and the City staff. We would hold
24 stakeholder interviews. Staff is proposing a series of three interviews with different types of stakeholders
25 such as community leaders, landowners and downtown businesses. The land use plan would find some
26 goals and character images of things that we might want to be looking for. It will be pretty graphical on
27 catalyst type projects that can be done leading into preliminary design concepts. We would have a third
28 meeting with the advisory committee and propose two public meetings. Assuming this item gets approved
29 tonight, Freese & Nichols propose to deliver it sometime right before Thanksgiving. There are a lot of
30 meetings involved, a lot of coordination needs to be done and quite a bit of work to do to get it delivered
31 but this would be a very helpful tool for Commerce as it continues to grow.
32

33 Council Member Beckey Thompson made a motion to approve the resolution and authorize the task order
34 with Freese & Nichols. Council Member Teddy Reel seconded the motion, and it carried unanimously.
35

36 **18. Discussion and Possible Action on a Resolution Authorizing the Award of a Design-Build Contract to**
37 **HWH for Design and Construction of the Commerce Animal Shelter Project and authorizing the**
38 **City Manager to execute all necessary documentation.**
39

40 City Manager Howdy Lisenbee relayed that this agenda item also comes from the 2022 Capital
41 Improvements Plan. It is the expansion of our animal shelter. This has also been a design-build process
42 where staff went through a multi-stage procurement and selection process. We had three very reputable
43 construction companies that submitted proposals to do this project. Staff held interviews with all three and
44 then the selection committee made a best value recommendation. A company called W. B. Kibler was the
45 recommendation of the selection committee. Once the selection committee had made a recommendation,
46 City Manager Lisenbee noted that he will start having contract negotiations with them just to make sure
47 that we can all agree to the fundamental terms of the contract. We started negotiations with W. B. Kibler
48 who subsequently had some things come up in their company, and they could not agree to this contract and
49 had to step away from the project. That happened with enough time for us to reach out to Harrison, Walker
50 and Harper (HWH), which is a construction firm out of Paris who also bid on the project. They were the
51 number two recommended company, and they were very eager to take on this project. They are the
52 construction company that built City Hall and also built our current Public Safety Building, so we have
53 some experience working with them. They are a reputable construction company, and staff began some
54 preliminary contract negotiations. They have agreed to all of the primary terms of the contract and there are
55 still some minor things that we would have to work out that are just basically fill in the blanks.
56

1 Manager Lisenbee reminded Council that again, in a design-build contract, they are not authorizing him to
2 spend \$1,500,000 on an animal shelter but they are authorizing him to do a design-build contract with this
3 company to start the design process. As we go through that design process, we will come back to Council,
4 and you will have opportunities to review the designs and approve any budgets before construction activity
5 starts. It will be done through what is called a guaranteed maximum price. For example, if we go through
6 design, and the builder says we can build it for \$1,000,000, the City locks in a guaranteed maximum price
7 of \$1,000,000. Then they begin construction and if it costs \$1.1 million to build, they have to come up with
8 the extra \$100,000. However, with the guaranteed maximum price, you have the option if they say it is
9 going to cost \$1,000,000, and it actually gets built for \$900,000, then there is a saving of \$100,000.
10 Manager Lisenbee clarified that he is not proposing a contract with any scheduling incentives or early
11 completion bonuses but he is proposing a contract where we incentivize them to come in under budget. If
12 they come in under budget, based on that guaranteed maximum price, we will split the savings with them
13 50/50 with a cap of \$15,000. Manager Lisenbee noted that at all times, the City has control on the budget
14 for the project.
15

16 As it stands, the City plans to expand the existing shelter. We have about four-thousand square feet that we
17 use to provide services to our community. Based on the budget we have, we feel that we can reasonably
18 double the square footage. That will definitely improve the level of service that we can provide to our
19 community and to our stakeholders. At this point we have not had any discussions with Hunt County. We
20 currently have an agreement with Hunt County for animal control services. We will be revisiting that
21 agreement. If Hunt County wants space and capacity within this shelter, we are going to ask them to put
22 money into the project. All of this will happen during design stages, but ultimately, staff will end up
23 coming back to the Council with a guaranteed maximum price for their approval. Staff is asking for the
24 authorization of a design-build contract with HWH for our animal shelter.
25

26 Council Member Teddy Reel made a motion to approve the resolution and approve the contract with HWH.
27 Council Member Stephanie Muller seconded the motion, and it passed unanimously.
28

29 **19. City Manager's Report; discussion of same.**
30

31 • **Public Input Feedback**

32 No public input to respond to
33
34

35 • **Finance Update**

36 Jamie Campbell, Director of Finance addressed the City Council. She noted that she hopes to have an
37 audit report for the Council next month, which is very quick as they have only been working on an
38 audit of the City's financial for about 14 days, which is a positive sign.

39 • **Property Tax January 2022**

40 As is typical for January, the City has reached 74% collections for our budgeted tax levy for
41 revenue collected, which is a total of \$2,521,000 and some change. For delinquent property taxes,
42 we have received \$20,000 and an additional \$12,000 in penalties and interest, which is about
43 6.5% of our total outstanding delinquent taxes. Director Campbell noted that this goes back to
44 selling off some of the properties that we have and people catching up on their property taxes. In
45 Commerce, we usually have a really high collection rate of 97-99%, so it is always good to see
46 people purchasing those lots and purchasing those homes and paying off that small delinquent
47 amount which is only about \$300,000.
48

49 • **Sales Tax**

50 We had a very large spike in February that is out of the norm. We had one vendor who made a
51 payment that is related to prior months. They had previously missed an error of about \$30,000
52 that actually belonged to the previous fiscal year. If you back that out, the City is still over
53 budget. We are still over what we were in February of last year. If you take that out of the
54 equation, you know it is going to skew everything. However, since they paid it with this month's
55 sales tax, it is in this month's report and City is at just about 50% of our budget. That spike is in
56 retail, and the increase is related to that one specific vendor, as previously discussed.

We are continuing to see an upward trend in manufacturing construction category sales tax. Retail sales tax revenue is also still going strong, Accommodations and food services, again, still also going strong. The City is still seeing that uptick; and we are still seeing recovery from COVID; but also continuing to see great growth here in Commerce. Our sales tax numbers continue to grow even though enrollment is actually down at the university. It is not great for the university to have their enrollment numbers down, but even with lower enrollment numbers for the university, we still see economic activity growing, which means that some of this is not being driven by the university but rather increasing City economic activity that is being generated. That is a very positive thing for us as a City.

• **Calendar of Upcoming Events and Meetings**

Molly Jacobsen, Director of Administrative Services, presented to the Council the upcoming events and meetings.

1. There is a special election that will run concurrently with the general, uniform election date on May 7th. All the dates for early voting and the last day to register to vote will be consistent for both elections. As a final reminder, the filing periods will differ for the two elections and the filing period for the position of mayor ends this Friday, February 18th at 5:00 p.m.
2. The deadline for the filing period for the special election, which is to fill an unexpired term for Place Four, a two-year term, is going to be Thursday, March 3rd at 5:00 p.m. We will draw for the order of names on the ballot the following Friday, should there be a need.
3. The Lions Club is holding their annual Texas Hold'em tournament on the evening of February 26th at Sand Hills Country Club from 7:00-10:00 p.m.
4. Our Commerce Boys' and Girls' Club is providing their online registration or in-person registration for baseball, softball and T-ball. The deadline to register is March 5th.
5. Commerce FFA is hosting their annual Alumni Auction and Fish Fry at the Commerce High School cafeteria on Saturday, March 5th beginning at 5:00 p.m.

• **Personnel**

Director of Administrative Services Molly Jacobsen said that the Council approved in the fiscal year 2022 budget the addition of an intern from the university. Her focus is primarily on improving communications with the City to our citizens, so she is very active on the City's various social media platforms. She has launched the City a Twitter account, so be sure and follow us on Twitter. In the coming weeks, we will also be launching an Instagram for the City. Our intern, Kaylah Boldin, has been phenomenal. It is just another great example of a partnership between the university and the City. It allows her the experience of getting to practice marketing and communications on behalf of a city, so it has been great for her and great for us.

• **Projects Update**

City Manager Howdy Lisenbee said that he had two things that he wanted to bring up and they do not require action. The raw water motor control center that is at Lake Tawakoni is a project that has been a bit of a thorn in our side for a while. We are scheduled to open bids this Thursday. We have one contractor that we know is going to bid, and we have a second contractor that is waiting on a final piece of pricing. That contractor requested that we extend the bid date till next Thursday. We are going to accommodate, so we can allow for a bid opening on the 24th and still comply with the grant requirements. We had reached out to the Council about the possibility of having a special meeting on the 22nd to award that contract. We do not need that meeting on the 22nd. We had already talked about a meeting on March 1st as kind of the budget kickoff, and we'll likely have a contract award at that special meeting.

The next thing regards our street and sidewalk improvements. Freese and Nichols is moving forward on the design of Washington Street. This will start at Live Oak on Washington and head south all the way to Culver. As they have been working on the design of the street reconstruction, the Commerce utility team and City Manager have been looking at the existing water and sewer utilities that are underneath Washington. We initially felt like there were going to be a couple of sections that we needed to go in and replace. We felt that we could do that ourselves and have that done in time for the proposed construction of

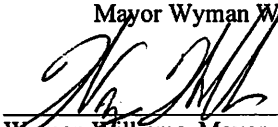
1 Washington. We have done some further evaluation of some of those sewer lines; they are much deeper
2 and in much worse shape than we had anticipated. Therefore, Manager Lisenbee is proposing that he get a
3 contract to do some design on those sewer lines. We would probably hire a contractor to replace those
4 lines. Once you start getting more than 8-10 feet deep on a sewer line, you have a lot of trench safety and
5 issues that our staff does not deal with on a daily basis. If you do not do it on a regular basis, it increases
6 the safety risk. He noted he would rather hire a contractor to bring in some equipment to do that really deep
7 work rather than put our staff at-risk. We simply do not have the tools to do that much work that deeply.
8 However, Manager Lisenbee noted that he cannot hire a contractor unless he has an engineer do some
9 designing. That takes some time, so what he is suggesting at this point is that we may not be constructing
10 Washington Street this summer because I need to get some utility work done first. There is nothing worse
11 than putting down brand new pavement and then immediately cutting it open and doing utility work. We
12 had been striving toward trying to get some street work done late summer to early fall of this year. We may
13 delay that a little bit to buy some time to do some sewer work on those underground utilities. Manager
14 Lisenbee noted that he will be bringing back to Council in the coming weeks a potential design contract to
15 do some more work on those sewer lines, so they will hear more from him in regards to that project in the
16 near future.

17
18 • **Intergovernmental Events & Issues**

19 None

20
21 **20. Adjourn.**

22 Mayor Wyman Williams adjourned the Council meeting at 7:54 p.m.

23
24
25
26 
27 _____
28 Wyman Williams, Mayor

29 
30 _____
31 Molly Jacobsen, City Secretary

32 03/15/2022
33 _____
34 Date

2.15.2022.MINS