

MINUTES
REGULAR CITY COUNCIL MEETING
October 18, 2022 – 6:00 p.m.

PRESENT: Mayor Teddy Reel
Mayor Pro Tempore Anthony Henry
Council Members: Jim Ayres, Stephanie Muller and Beckey Thompson
City Manager Howdy Lisenbee
City Attorney Charles Anderson
Finance Director Jamie Campbell
Director of Administrative Services Molly Jacobsen
Director of Public Safety Chris Bassham
Assistant Director of Community Development Jon Harper

ABSENT: None

1. Call to Order.

Mayor Teddy Reel called the meeting to order at 6:00 p.m.

2. Invocation.

Pastor David Ferguson of the Commerce Community Church (C3) led the invocation. Commerce Community Church was established in 2007.

3. Pledges of Allegiance.

Shahn Laymance, a graduate student at Texas Tech University working toward his Master's in Nursing Education led the Council in the pledges.

4. Consent Agenda.

Acceptance of Minutes:

- **Commerce Economic Development Corporation Meeting-August 31, 2022**
- **City Council Meeting-September 18, 2022**
- **Planning and Zoning Commission Meeting-September 6, 2022**
- **Parks & Recreation Advisory Board Meeting-September 14, 2022**

Consider and Take Action on:

- **Motion Authorizing Appointment of Brandon Wooton to the Animal Shelter Advisory Board.**
- **Motion Authorizing Appointment of Aracely Castro as an Alternate to the Planning and Zoning Commission.**
- **A Resolution Approving a Neighborhood Empowerment Zone Agreement for the Property Located on 1115 Charlies Drive (Property ID #49703) with Michael White; Authorizing the City Manager to Execute all Necessary Documentation.**

City Manager Howdy Lisenbee referred to the bullet item under 4B on the Consent Agenda regarding the appointment of Aracely Castro. He stated that the position is not an alternate position but a regular position on the Planning & Zoning Commission.

He continued that there was also some question about the final bullet under 4B on the Consent Agenda. The Agendase program sometimes scrambles the documents that are uploaded, and they don't always translate correctly into the agenda packet the council receives. We have tried to find ways to take the files and change the way they get uploaded into Agendase, but sometimes that image gets distorted.

Council Member Stephanie Muller made a motion to approve the consent agenda with the exception of the items removed regarding the appointment of Aracely Castro and the resolution approving a Neighborhood

1 Empowerment Zone Agreement for the property located on 1115 Charlies Drive (Property ID #49703).
2 Council Member Beckey Thompson seconded, and the motion carried unanimously.
3

4 City Manager Howdy Lisenbee addressed the Council stating that the Planning and Zoning Commission
5 does not have alternate members, so that agenda item was removed from the Consent Agenda. Now, we are
6 asking for approval from the Council to appoint Aracely Castro on the Planning and Zoning Commission as
7 a regular member. Mayor Pro Tem Anthony Henry made a motion to appoint Aracely Castro to the
8 Planning and Zoning Commission. Council Member Jim Ayres seconded the motion, and the vote carried
9 unanimously.
10

11 Mayor Pro Tem Anthony Henry proposed that the Council hold off until the next Council meeting on the
12 bullet item under 4B regarding a Resolution to approve a Neighborhood Empowerment Zone Agreement
13 for the Property located on 1115 Charlies Drive (Property ID #49703) in order to get clearer documentation
14 and encourage applicants for this program to submit clear documentation when applying.
15

16 Mayor Pro Tem Anthony Henry made a motion to table this item until the next Council meeting. Council
17 Member Jim Ayres seconded the motion, and the vote unanimously.
18

- 19 **5. Presentation to City Council by members of the Public. (To be conducted as close to 6:05 p.m. as**
20 **possible with a three-minute limit per person. Public Comments will cease at 6:20 p.m.) This period**
21 **is reserved for citizens to discuss items not on the listed agenda. The response to Public Comments**
22 **will be limited to: 1) A statement of fact or policy; 2) Direction to take up the issue with a city staff**
23 **member; 3) An offer to place the item on a future Council Agenda.**
24

25 Commerce resident Patricia Cifuentes stated that she is here about a zoning ordinance issue regarding rave
26 parties being held in her neighborhood. She stated that alcohol is provided, and they even have an
27 organized valet parking system where they have parking attendants collecting money and utilize a church
28 parking lot. She stated that they are parking people at the Church of Christ at night and have party goers
29 walking down her street at all hours who are escorted by people with vests and lights. She noted that the
30 party last night stopped about 3:45 a.m. She stated that her Ring app goes off constantly throughout the day
31 and night notifying her as people go across her property. Mrs. Cifuentes said that she has had police
32 officers come out to her residence numerous times. She noted that she is proud of this community, but that
33 we need to come together somehow to work with the community, the students, and the university to find a
34 place where they can party and have a good time without violating noise ordinances. She asked for help to
35 find a peaceful resolution to the matter.
36

37 The next resident who came forward was Yuri Cifuentes, spouse of Mrs. Patricia Cifuentes. He also
38 addressed his concerns about the rave parties noting that one hundred people should not be allowed in one
39 residential house and that safety is a major concern for him.
40

41 Frank Higgins was the next member of the public to speak. He stated that he had bought a place on Neal
42 Street and it has come to his attention that Park Street is a TxDOT right-of-way. He noted that he had
43 exchanged e-mails with James Adkins of TxDOT. Mr. Adkins told him that the reason that north Park
44 Street is being used as a street for semi-trucks is that Commerce does not have a dedicated truck route to
45 route them around downtown. Mr. Higgins did some research and found that Commerce could get the truck
46 route signs for about \$17 from Amazon, which are approved by TxDOT. He made sure that Mr. Adkins
47 would approve the size and the wording of the signs. He further stated that poles from Home Depot would
48 be about \$24/pole. He said that if Commerce did get the signs, he would suggest that an orange flashing
49 light be put on top of each truck route sign. If the signs are put up, Mr. Higgins said that Mr. Adkins would
50 drive the route, and if that route is approved, TxDOT would release Park Street back to Commerce; and it
51 would no longer be a route for trucks. Once that is done, it would be up to the police to take care of
52 violators.
53

54 Judy Fane spoke to the Council about the "No-Parking" signs that had recently been put up on Sycamore
55 Street between Park Street and the railroad tracks. She said that she has owned a house on Sycamore Street
56 since 2001, and parking has never been an issue. It is only recently that parking became an issue, and that is

1 because of the house located on the corner of Sycamore Street and Park Street. She noted that house
2 became a rental property a couple of years ago, and since that time, the renters have been parking on the
3 street. They are blocking the street when someone turns the corner from Park Street or when someone
4 crosses Park Street to continue down Sycamore Street. She stated that the residents of that house are
5 breaking laws regarding parking in Texas noting that Texas parking laws state that you cannot park in a
6 way that would hinder or obstruct traffic turning the corner. The current occupants have consistently parked
7 in a manner that obstructs traffic crossing Park Street and traffic turning the corner from Park Street onto
8 Sycamore Street. She finds it strange that the entire street of Sycamore has recently been inundated with
9 no-parking signs, except the house on the corner that is causing the problem. She verbalized that it was her
10 understanding the house in question had been given an easement to keep allowing parking at the corner of
11 the intersection. She thinks that the decision to install these "No Parking" signs was not made in a manner
12 conducive to equity or inclusion. No residents of Sycamore Street were surveyed regarding the installation
13 of these signs, thus no inclusion and there is no equity in the decision-making process being that the house
14 causing the issue of obstructing traffic has been granted an easement, and the rest of the residents are no
15 longer allowed to park on the street. Finally, she noted that between Monroe and Park, which is four
16 blocks, there are a total of six (6) no-parking signs. Between Park and Division, which is four blocks, there
17 are twenty-six (26) no-parking signs now. She said that the signs are ugly, and they have changed the
18 whole look of the street noting that it is no longer a nice, pleasant street to live on because as soon as you
19 pull over, you see all these hideous no-parking signs. She requested that the Council put in an order to have
20 the no-parking signs removed. Compared to some other streets, including the part of Sycamore that runs
21 between Washington and Park, there are just far too many signs. She said that her neighbor has two signs in
22 front of her house. She said that she knows that she is not the only resident who feels this way because she
23 went around and surveyed the other residents to see how they felt about it and all of her neighbors find the
24 signs disgusting and want them removed.

25
26 **6. Public Hearing, Discussion and Consideration of a Resolution Establishing a City of Commerce**
27 **Property Assessed Clean Energy ('PACE') Program.**

28
29 City Manager Howdy Lisenbee said that the City has an opportunity to create a program called PACE
30 which is the Property Assessed Clean Energy program. The state of Texas authorized the use of PACE
31 programs in 2013. PACE is an economic development and financing tool in which commercial, industrial,
32 and large multi-family properties that are looking to make investments and improvements in their
33 properties which result in energy efficiency savings have special financing options that allow them to
34 finance those energy improvements in a way that makes a better business case for their property which
35 incentivizes them to take and renovate older buildings and improve the energy efficiency.

36
37 The role that the city plays is simply in facilitating these exchanges. Manager Lisenbee said that we
38 currently have one industrial customer, NEXI-2, which purchased the old Covidien building off of Maple
39 Street. They are in the process of renovating that facility. It is a little over 300,000 square feet and they will
40 be moving in a manufacturing process, and employing 200 to 250 people within our community. Part of the
41 renovation is replacing and upgrading all of the energy components of that large building.

42
43 With traditional financing for energy projects, lenders will only give you a short loan period of five to eight
44 years. If you have a large investment that you have to pay back in five to eight years, that is a hard business
45 case to make in terms of the cash flow and profitability of your business. However, through a PACE
46 program, they can take that same bank and that same financing and stretch it out 10 to 20 years, depending
47 on the life of the assets being installed. That makes it more beneficial for the business that is putting in
48 these improvements. It is a financing tool that private companies use with private lenders. There are no City
49 funds or resources put into the development, except the property owner agrees that they will place
50 effectively a tax lien against their property so that the repayment of that financing bears the guarantee that
51 if they default on that payment, there would be a tax lien that could be foreclosed. The banks and the
52 finance companies take that as collateral and are much more willing to lend money for these improvements.
53 Only cities have the authority to place tax liens within their city. A private owner, in this case NEXI, will
54 decide to renovate this 300,000 square foot building, which will include a large amount of money in energy
55 efficiency savings. They want to finance it through the PACE program, so they voluntarily agree to have a

1 tax lien placed against their property. Once that financing is paid off, the lien would be removed. Thus, the
2 only role the City plays is placing the lien.
3

4 Texas authorized PACE programs, so now cities and counties have to adopt a PACE program within their
5 jurisdiction. If the city of Commerce adopts and creates this PACE program, that becomes an economic
6 development tool that can be used to help investment in renovations and reclaiming some of our older
7 facilities and updating them to more current codes. It makes the likelihood of private investment in our
8 community greater, so staff is in support of this program. There is no risk to the city; we are not putting
9 any of our financial assets into the program; we are not committing staff time into the administration of this
10 program. We are simply using the authority we have to place tax liens, which are voluntarily being
11 requested. Last month, we passed a resolution of intent stating that we are looking at and considering the
12 creation of a PACE program. We then published a report to the community and through our website that
13 outlines what the PACE program would look like and how it would be administered. There has been
14 approximately one month of time that the public could review that program. Tonight, our steps are to open
15 a public hearing to see if there are any questions or concerns from the public about this program. At the
16 conclusion of the public hearing, Council has the option to pass a resolution creating this PACE program.
17 Staff is recommending approval of that resolution to create this program. If Council chooses to create this
18 program, then the next item, which is directly connected would be hiring a private third-party administrator
19 to manage those PACE applications because when a corporation decides they want to do a PACE program,
20 they have an application that they submit. City staff would have to review that application. Then there is an
21 analysis to determine if this project really will result in energy savings and if so, what the life of that project
22 would be. That evaluation would have to be done by City staff, and so we are proposing to hire a third party
23 to do all of that administration and they manage the assessments. Then if you have a private corporation or
24 a private company, and you have a finance team that are all agreeable to do this project, then you would
25 have access to the PACE funding. We are recommending that we hold the public hearing tonight and
26 approve the resolution. If that is done, then we will consider entering into a professional services agreement
27 with Texas PACE authority to administer that program in the subsequent item on the agenda.
28

29 Mayor Teddy Reel opened a public hearing at 6:38 p.m. No one came forward, and the public hearing was
30 closed at 6:39 p.m.
31

32 Council member Stephanie Muller made a motion to approve the Resolution establishing the City of
33 Commerce PACE program. Council Member Beckey Thompson seconded the motion, and it carried
34 unanimously.
35

36 **7. Discussion and Possible Action on the Approval of a Professional Services Agreement (PSA) between**
37 **the City of Commerce, Texas and Texas Property Assessed Clean Energy Authority ('PACE').**
38

39 City Manager Howdy Lisenbee said that when Texas authorized the creation of a PACE program statewide,
40 Texas PACE Authority and some of their founders were involved in that process, so they operate a 501c3.
41 They are a non-profit, and they administer PACE programs for the jurisdictions within the state of Texas.
42 We are proposing that we enter into a professional services agreement with their firm so that they would
43 administer the PACE program on behalf of the city of Commerce. One of the questions that sometimes gets
44 asked is how can the City contract with somebody without going through a bidding process? The City can
45 do this because we are not paying any money. Their funding is through the private companies paying
46 application fees that creates the funding that PACE uses, so throughout this agreement, the City is not using
47 taxpayer dollars to fund Texas PACE Authority or to fund this private investment in energy efficiency.
48

49 Charlene Heydinger with Texas Property Assessed Clean Energy Authority ('PACE') addressed the
50 Council. She said that PACE began as a 501c3 in 2015 because it was unreasonable to expect cities and
51 counties to be able to put this program together and run it with current resources. With 254 counties and
52 almost 1200 cities, this program was never going to be attainable. She stated that PACE would not approve
53 a project on behalf of a city unless an independent engineer validated that the savings from the project
54 would exceed the total cost of the project. We want these projects to succeed, and we want this program to
55 be around as a quality program 20 years from now. The only way to do that is with quality control. Ms.
56 Heydinger noted that we are trying to help businesses do what they want to do if they can stop spending so

1 much money on utilities, and utility prices are going up. They could put that money into new people or in
2 the case of a non-profit, into the core mission instead, and that is a good thing. Mrs. Heydinger noted that
3 they will never have a huge staff; but they do not need a huge staff. Further, she noted, they are not going to
4 need a lot of money to do this right, and they will continue to lower user fees as volume increases. She
5 further encouraged the public to reach out if you are involved in a Rotary, a chamber or a religious
6 organization that needs something like this to lower their operating expenses. She stated that PACE would
7 like to work with these groups because education and outreach is always the first step. This is a chance for
8 the contractors, roofers, lighting folks, plumbers, HVAC and mechanical workers to actually provide the
9 installation of better equipment instead of doing repairs on equipment that should have been replaced years
10 ago. The installation of better equipment will not only help the buildings in Commerce, but PACE hopes to
11 expand job opportunities and economic opportunities for everyone.
12

13 City Manager Howdy Lisenbee added that one of the first PACE projects in Texas was a church, so it is not
14 just large corporate and business owners that can benefit from the program. Non-profits that need to make
15 renovations and updates to aging facilities can also benefit from the implementation of this program.
16

17 Mrs. Heydinger continued that to make this truly available for small businesses and non-profits, we need to
18 get local banks and credit unions to look at this PACE as a great new product for their best customers.
19 There is a lot of education that will need to happen now and they look forward to working with us to figure
20 out how to get the word out to people.
21

22 Council Member Stephanie Muller made a motion to approve the professional services agreement with
23 PACE. Mayor Pro Tem Anthony Henry seconded the motion, and the vote carried unanimously.
24

25 **8. Discussion and Possible Action on a Resolution by the City of Commerce City Council Denying**
26 **Oncor Electric Delivery Company, LLC's Application to Increase Rates related to Oncor's**
27 **Statement of Intent to Increase Rates filed on or about May 13, 2022, Requiring the Reimbursement**
28 **of Municipal Rate Case Expenses; and declaring an Effective Date.**
29

30 City Manager Howdy Lisenbee said that he would provide a bit of context and background on this item. In
31 May 2022, Oncor submitted notice of intent to raise their fees across the state of Texas. They were looking
32 to increase revenues by approximately \$251 million annually, which would have trickled down to about a
33 four and a half percent increase to Commerce citizens' electric bills. In Texas, the public utility
34 commission (PUC) reviews these rate cases. The city of Commerce purchases power through purchasing
35 cooperatives. Cities bond together and buy electricity because you get more buying power than one little
36 community buying electricity by itself. We had an opportunity to respond to that increase for a rate
37 adjustment, so back then we took action to delay that rate increase request. As a home rule municipality, we
38 have original jurisdiction over the rates that are charged to the citizens of our community, so we could at
39 that point have approved the rates that they requested. However, we chose to say no, table that request so
40 that some of our consultants could begin to review that case and the proposed rates. The purchasing
41 cooperative that we are a part of did an extensive review, and with their findings, they made a case back to
42 the PUC that Oncor was requesting an additional \$251 million. It was decided to reduce that by \$211
43 million, so our consulting team said that if we gave Oncor \$40 million, then they would be asking for \$211
44 million too much. There are other cities in Texas that have other representation that did their own
45 evaluations as well. All of that has resulted in requests before the Public Utility Commission to not allow
46 Oncor to raise revenue by \$251 million but to actually reduce current revenue by \$275 million. Oncor has
47 asked for a rate increase, and these groups within the state of Texas have come back and counter-offered,
48 so there is still a lot of fighting yet to be done in Austin. Commerce does not want to get caught in the
49 middle of that, but at this point, it is staff's recommendation that we deny that rate request and let the PUC
50 figure it out. That process is the reason that the Public Utility Commission exists. The utilities operate
51 somewhat like a monopoly. They work back and forth to figure out what is the rate that the public should
52 pay, and we are willing to take whatever the PUC settles with. However, until that gets settled, our job is to
53 say no by denying this rate increase, and then we will see where it lands. Staff recommends the approval of
54 a resolution that denies the rate increase for the citizens within our jurisdiction.
55

Council Member Beckey Thompson made a motion to deny the rate increase from Oncor. Mayor Pro Tem Anthony Henry seconded the motion, and the vote carried unanimously.

9. **Discussion and Possible Action on a Resolution Approving an Engagement Letter with Scott, Singleton, Fincher & Company, P.C. to provide audit services for the City of Commerce for the period beginning October 1, 2021 and ending September 30, 2022 (Fiscal Year 2022) and authorizing the Mayor and his Designee to Execute any Necessary Documentation.**

Finance Director Jamie Campbell said that Council has before them an engagement letter from Scott, Singleton, Fincher & Company, P.C. They have been our auditor for some time, however she wanted to draw attention to the differences in this engagement letter compared to what we have had in the past. We received the Coronavirus State and local fiscal recovery funds, which is another term for the ARPA funds. We received a little over \$2 million, and these are the funds that we have been using to fund for premium pay for our Public Safety, some revenue recovery and some other small projects. We have until 2024 to spend these funds, which we received in two lump sums; we just got the other one about two weeks ago. Because of that, there is a rule that says if you receive any kind of either state or federal funding over \$750,000, you have to have what is called a single audit. That single audit takes everything you have done with these grant programs and looks at them line-by-line, which obviously has a much higher cost associated with it, since our audit is mainly based on an hourly cost. In the final ruling for these funds, we are what is considered a "Non-Entitlement Unit" (NEU) in local government, which means we are so small (population under 50,000) that they are going to make it easy for us. Meaning, if you are not going to hit that threshold of \$750,000, we are going to give you an opportunity to do this other audit, which is a much simpler kind of version of a single audit. Director Campbell stated that she worked with the auditors for a couple of weeks, and they went through and did the research and read everything, making sure that we qualify for that type of audit. Because we are going to qualify for this alternative audit, Director Campbell noted that you will see this additional section that has been added to our engagement letter. We are anticipating of course for it to add cost, but they do have a not-to-exceed cost in there. Director Campbell stated that she has very detailed supporting documents, so she is hoping to limit the amount of time that the auditors spend on the audit. That is the main change; everything else is very similar to what we have seen in years past. We always have a do-not-exceed dollar amount in the engagement letter. In the past few years, we have not even hit that number; we don't come close to that number. Additionally, Director Campbell noted that she has asked them for the last two years to separate out the actual dollar amount for the EDC's portion of the audit, so that she could use this toward intercompany billing.

Mayor Pro Tem Anthony Henry made a motion to approve the Resolution approving the engagement letter for the city's audit. Council Member Stephanie Muller seconded the motion, and the vote carried unanimously.

10. **Public Hearing, Discussion, Consideration and Possible Action on a Resolution Approving a Request by Cynthia Curry of The Moore St. Commons, Inc. for Approval of a Replat and Alley Abandonment: of Lot 4 W.J. Taylor Addition of the City of Commerce, Hunt County, Texas, Property ID: 81646, Legal Description: S5150 W J TAYLOR ADDITION #1, BLK 4, LOT 4, ACRES .1672, A-2 Apartment Dwelling District.**

Jon Harper, Assistant Director of Community Development, said that they were approached in the spring with the request to abandon this alley. Their main concern was if there were any utilities in the alley, so they required the applicant to locate utilities, if any. There were none located. Last Wednesday, Planning and Zoning recommended approval of the replat and alley abandonment 5-0.

Council Member Stephanie Muller asked if this would just be adding this property to the current lot and if they had any plans for it. Mr. Harper replied that they were having it surveyed.

City Manager Howdy Lisenbee added that typically replats that are four lots or fewer have the ability for administrative approval, and it would not come to Council. However, they were not comfortable administratively approving the abandonment of an alley, so it was brought to Planning and Zoning and the

Council. We do not feel that there is any harm to the public by abandoning this alley since there are no utilities there, so staff recommends approval.

Mayor Teddy Reel opened a public hearing at 7:00 p.m. No one came forward, and the public hearing was closed at 7:00 p.m.

Mayor Pro Tem Anthony Henry made a motion to approve the Resolution authorizing the replat and alley abandonment. Council Member Stephanie Muller seconded the motion, and it carried unanimously.

11. Discussion and Possible Action on an Ordinance to Amend Ordinance 2021-27 which adopted the Fiscal Year 2022 Capital Improvements Plan to increase the budget for the Animal Shelter Expansion project.

City Manager Howdy Lisenbee said that as part of the FY 22 Capital Improvements Plan (CIP), there were a number of projects that were approved and created. One of those projects in FY 22 was either the development of a new animal shelter or the expansion of our existing animal shelter. Based on cost per square foot estimates at the time, we felt like a budget of \$1.5 million dollars would allow us to improve the services that we provide to our community for animals. Many of us are aware since that time, the construction industry has become somewhat aggressive and pricing has changed, but as we have progressed through the design process, we started with what is called programming. This is where you meet with the architects, the contractor and with staff to talk about what the needs of our community are and what do we anticipate the needs will be in the coming years as our community grows. We created a list of all the services that we need to provide, all the services we would like to provide and what is the level of service we want to be able to give to the community. Out of that programming discussion, the architects began to draw and design and come up with what would possibly work. The first draft would include everything that we put on the wish list and had an estimated budget of \$2.6 million. We have a budget of \$1.5 million, so Manager Lisenbee said he told the architect and the contractor that we cannot do that. Some of the things that we would like to have were cut out, which left a building that had the capacity to meet our needs but did not have all that we wanted to provide the community. That budget came in at \$1.9 million. He reminded them that again, we only had budgeted \$1.5 million, and we could not build that. They went back and did some redesign, and they presented what Council has before them as option 3. Under the current construction climate and what pricing is, option 3 is the amount of building that we can get for \$1.5 million. That would add 14 additional kennels to the existing shelter. We have approximately 27 kennels in the current building. That is 27 kennels to meet the needs of our community as well as the needs of portions of Hunt County. This is no longer enough. The \$1.5 million budget will give us an additional 14 kennels and an improved space for the public to come in and work on adoptions. It would give us a much nicer public facing facility. Right now, when you come in the front door at the current animal shelter, the lobby is also the cat room, so there are cages full of cats in the lobby. We have people that want to come to the shelter, but they have cat allergies. We want, as a minimum, to create a new public-facing space for the public to interact. This would also improve adoption rates. What we are proposing for consideration is increasing the project budget from \$1.5 million to an even \$2 million. That would build the facility that gives us the capacity we need to meet the growing needs of our community. It is still trimmed back; there are still some pieces that we would like to be able to offer and won't be able to. Staff is requesting that you adopt this Ordinance to amend the original budget of that project from \$1.5 million to \$2 million, and we are proposing to fund it in the 2023 CIP. What we are proposing is to take \$500,000 from the Monroe Street project. We are not going to build all of Monroe anyway in 2023, so this takes some of that funding, moves it into 2023, and it allows us to fully fund the animal shelter at a capacity that fully meets the needs of our community.

There was some question as to whether or not we could use fund balance to supplement this project. The technical answer is yes, the Council has the authority to authorize use of fund balance. Manager Lisenbee said that he is not comfortable with that. One of the reasons why is that if we have a major water leak on our treated water line coming into town at the river crossing of the Sulphur River, we would have no way to bring water into town. A cheap repair for that would be \$350,000, but the better solution would be \$500,000. We have that amount in the fund balance, and that is why we carry fund balance. If we took that fund balance and applied it to the animal shelter project, we would lose the ability to respond to major

1 emergencies. Taking \$500,000 from the street reconstruction would not delay or stop the reconstruction,
2 but it would allow us to increase the animal shelter budget using funds we already have planned for 2023.
3 The Ordinance before the Council would amend last year's CIP to change the original project budget.
4

5 Council Member Stephanie Muller said that she had several questions about the animal shelter, but it would
6 take too long to get them answered tonight. She proposed that the Council does not make a decision tonight
7 and put this item in a workshop so that it could be discussed in greater detail.
8

9 City Manager Howdy Lisenbee said that he would work to put the workshop on the calendar and see if the
10 architect would be available to visit with the Council.
11

12 Council Member Stephanie Muller made a motion to table the agenda item until the next meeting. Council
13 Member Beckey Thompson seconded the motion, and the vote carried unanimously.
14

15 **12. Second Reading-Public Hearing and Consideration of an Ordinance Approving a Conditional Use**
16 **Permit to Allow Mini-Warehouse(s) for the Property locate at 2301 Mangum St. Commerce, Texas**
17 **75428; Property ID 30389, Legal Description: A0675 MARLER H (HUNT COUNTY), TRACT 26,**
18 **ACRES 4.823, General Business District.**
19

20 City Manager Howdy Lisenbee said that zoning is important for local communities. When a group of
21 people decide to live in close proximity to each other, conflict can arise. In an attempt to regulate the use of
22 private property, cities have the ability to regulate the allowed uses for properties, areas and sections of the
23 property within our community. At some point in the past, the city of Commerce adopted a Planning and
24 Zoning map, and they created zones within the community. Within each zone, there are lists of what are
25 allowable uses. You can do anything on that list you want within your property, but there are some uses
26 that are not allowed in zones because they conflict with the peaceable enjoyment of other people's
27 properties. Within a residential zoned area, there is a pretty exhaustive list of things that are not allowed.
28 We have the opportunity and the ability to look at our current zoning regulations that we already have on
29 the books. For example, dance halls; you cannot open a dance hall in a residentially zoned area, but what
30 people will do is throw a party at their house and claim that it is just a party at the house. When we find
31 them, we try to get them to submit dance hall permits. That way we can say no. How that applies in this
32 case is that by the City's water tower across from Fix and Feed, there is already a mini-warehouse or a
33 storage unit complex there. There is a property owner that is just north of that existing storage unit facility
34 that owns that property, and it is zoned General Business. In General Business, there is a list of things that
35 you can do by right, and there is a list of things that you cannot do. Then there is a list of things you can do
36 if you get permission, and the permission is a conditional use permit. We allow you to use this property in
37 this manner with these conditions. One of the reasons that is important is that this General Business zone
38 abuts directly with a residential zone. Thus, you have potential business uses that are right across the
39 property line from residential uses, and we need to make sure that we think through carefully how that
40 happens. If those uses are not compatible, it creates conflict. The applicant here is asking for the ability to
41 build about 200 units of self-storage that would essentially be wrapped around the location of our City
42 water tower. If that is allowed, they would get a conditional use permit. The owner brought their
43 application to the Zoning Commission, and they heard the request. There were some members of the
44 residential neighborhood adjacent who were opposed because they did not really want that use across the
45 fence from their backyard. The recommendation from Zoning was to grant the conditional use permit
46 because there is already a storage unit there, so it is consistent with how the land is being used. However,
47 they put two conditions on it. One, there has to be a screening element between there and the residential
48 property. It should be the back wall of the facility or a fence that visibly screens the residential area. The
49 second condition was that any outdoor lighting that is installed has to be pointed away from the residential
50 area because no one wants big, bright lights shining in their bedroom window. Zoning recommended
51 approval of the conditional use permit with screening and with restrictions on outdoor lighting. The
52 Council considered this Ordinance on a first reading last month, and it was approved. Tonight, is the
53 second reading of that Ordinance. If it passes, it will grant the applicant conditional use permission to begin
54 to move forward with the design and installation of storage units.
55

1 Mayor Pro Tem Anthony Henry said that one of the concerns that he had heard from residents was about
2 rodents. Other than that, the City Manager had addressed additional concerns he had discussed with
3 residents nearby about fencing and lighting.
4

5 Mayor Teddy Reel opened a public hearing at 7:19 p.m. No one came forward, and the public hearing was
6 closed at 7:20 p.m.
7

8 Council Member Stephanie Muller made a motion to approve the conditional use permit. Council Member
9 Jim Ayres seconded the motion. Mayor Pro Tem Anthony Henry abstained from voting but the vote
10 carried.
11

12 **13. Second Reading-Discussion and Possible Action on an Ordinance Amending Ordinance 2021-08 and**
13 **Ordinance 2021-22 to reflect modified City of Commerce Water and Wastewater Rates.**
14

15 City Manager Howdy Lisenbee said that as part of the adoption of our Fiscal Year 2023 operating budget,
16 as well as our Fiscal Year 2023 capital improvements program, we continue to have operational and capital
17 improvements needs within our water and wastewater utility. Last year as part of our budget process, we
18 did an evaluation and a reassessment of our utility rates, how they are structured and how they are charged.
19 Prior to that it had been almost eight years since the utility department had done a meaningful adjustment to
20 their rates. What we found over that eight-year period is that we had a number of years that the utility was
21 actually losing money and was not cash flowing. Thus, the reserves that had been maintained got drawn
22 down to critically low levels. Last year, when the city redesigned the utility rates, there was a commitment
23 that we have to stay on top of that and we cannot wait eight years again and find out that we should have
24 kept up with rates. What this does is it is just a small incremental step in making sure that the utility rates
25 that we are charging both cover our operational costs and allow for us to continue to invest capital in our
26 infrastructure to repair some of the problems that we have. An example being the water leak that we were
27 talking about. When those happen, you did not plan for them, but you need to respond to them. To do that,
28 the utility needs to be in a financially healthy position so that we can react and respond to those types of
29 events. This adjustment keeps us ahead of the operational cost and the capital requirements of our utility
30 fund. However, when we restructured our utility rates in last year's budget, we found that 36 to 40 percent
31 of our households in Commerce have a total annual income of \$25,000 or less a year. That is almost 40%
32 of the homes in our community. We need to be mindful that these are very low-income homes when we
33 structure these utility rates. What we did was create what the industry calls a lifeline rate. If you look at
34 typical residential consumption of water, basic domestic water needs for a family are usually met with four
35 to five thousand gallons of water per month. The way our rates are structured for residential customers is
36 that for the first four thousand gallons of water, we protect that consumption with a lower water rate so that
37 the cost of their basic domestic needs is not overwhelming to a \$25,000 a year household budget. This
38 adjustment does not affect that lifeline rate. We added a dollar to the base meter charge and then added a
39 dollar per thousand to the higher tiered consumptions. For 60 to 65 percent of our residential customers,
40 their utility bill is going to go up a dollar, so this rate adjustment allows us to stay on top of our operational
41 costs. It allows us to continue to invest in the capital needs of our system while still protecting that lower
42 income class of customers within our community. At some point, those rates will have to move a little, but
43 we will always keep in mind that lifeline rate and the impact it has on our senior citizens and our low-
44 income customers. Staff is recommending approval on the second reading and that these rates provide
45 sufficient revenues to recover the cost of our utility and to allow for continued capital improvement to keep
46 this system sustainable.
47

48 Council Member Anthony Henry made a motion to approve, on second reading, the Ordinance amending
49 Ordinances 2021-08 and Ordinance 2021-22 establishing water and waste water rates. Council Member
50 Stephanie Muller seconded the motion, and the vote carried unanimously.
51

52 **14. Second Reading-Discussion and Possible Action on an Ordinance Amending appendix "C," "Fees,**
53 **Rates & Charges" of the City of Commerce Code of Ordinances Fee Schedule and Providing an**
54 **Effective Date.**
55

1 Chris Bassham, Director of Public Safety, said that this is the second reading for amending Chapter 42
2 which established the city's fee schedule and nothing that this is a bit of a housekeeping item. This item
3 includes equipment fires, gas leaks and commercial incidents as well as some fire marshal fees. It is also
4 intended to align our fee ordinance with FEMA rates and puts a national standard on those rates. Chief
5 Bassham noted that it is pretty standard rates for services related to fire and emergency services and
6 nothing has changed from the first reading to this second reading.
7

8 Council Member Beckey Thompson made a motion to approve amending appendix "C" of the city of
9 Commerce code of ordinances fee schedule. Mayor Pro Tem Anthony Henry seconded the motion, and the
10 vote carried unanimously.
11

12 **15. COUNCIL COMMENTS**

13 Pursuant to Texas Local Government Code 551.0415(b), The purpose of this section is to allow the
14 Mayor and each City Council Member the opportunity to announce city events/community interests
15 and request that items be placed on future City Council agendas.

16 City Council Comment Guidelines:

- 17 • Expression of thanks, congratulations, or condolences
- 18 • Information regarding holiday schedules
- 19 • An honorary or salutary recognition of a public official, public employee or other citizen
20 (Except that a change in status of a person's public office or public employment is not
21 honorary or salutary recognition for purposes of this subdivision)
- 22 • A reminder about an upcoming event organized or sponsored by the governing body
- 23 • Information regarding a social, ceremonial or community event organized or sponsored by
24 an entity other than the governing body or an official or employee of the municipality or
25 county; and
- 26 • Announcements involving an imminent threat to the public health and safety of people in the
27 municipality or county that has arisen after posting the agenda.

28 -Council Member Anthony Henry thanked City staff for their work and everything they do.
29

30 -Council Member Stephanie Muller wished Director of Administrative Services Molly Jacobsen a
31 happy birthday as her birthday is tomorrow.
32

33 -Mayor Teddy Reel said that downtown is the heartbeat of Commerce. Since the last Council
34 meeting, there have been three successful events in the downtown area. Bois d'Arc Bash was one
35 of them and Mayor Teddy Reel wanted to publicly say thank you to the City staff and to all the
36 volunteers for all the support to the Chamber of Commerce. He also thanked the Downtown
37 Alliance who put on a pop-up shop event where merchants downtown hosted pop-up vendors,
38 folks that do not have the typical brick and mortar type of business. It was an extremely successful
39 event. It brought many people downtown that do not frequent the downtown area. He also
40 recognized the first annual Chili Cook-off and Bike Ride. This was a fundraiser for CASA and
41 raised \$5,364.00. Fundraisers for non-profit organizations are appreciated.
42

43 -Council Member Jim Ayres said that for the fourth year, the Rotary Club will be having the
44 Waves of Glory. This is an opportunity to honor veterans and first responders who serve our
45 county. The opening ceremony will be on November 5th at 10:00 a.m. at City Park. A little over
46 200 flags will be on display November 5th through the 11th at Aldridge and Park Streets.
47

48 **16. City Manager's Report; discussion of same.**
49

50 • **Public Input Feedback**

51 -City Manager Howdy Lisenbee said that the feedback provided this evening was very thoughtful and
52 valid. There may be further discussion and action that the City will need to put on a future agenda.
53 Regarding the parties that happen around town, they historically happen during the university
54 homecoming week. The campus used to make space on campus for these events. Over time, the events
55 grew and became more unruly. It got to the point that the events were no longer safe. The campus closed

1 their availability for these events. The events shifted to some private venues and some private clubs,
2 some of them outside of town. Because of the increasing violence at the events, they began to get shut
3 down. Then people started using public parks. At Ivory Moore Park, some 300-500 college students
4 would party in years pass during homecoming weeks. Increasingly, there was damage to city parks. City
5 staff would have to come in and clean up and restore some sense of usability of our park space. With
6 recent investment that the Council authorized in the new playground, the Council decided that the City
7 will not make that park available to these parties. The party planners were not happy. They tried to find
8 somewhere, and many of these events are put on by self-appointed event planners. They come in from
9 the Metroplex and charge admission. They bring security to the parties who may or may not be real
10 security. It is becoming difficult to manage because the campus does not want them on the campus, and
11 we do not want them tearing up our parks. The City has ordinances in place that prevent dance halls and
12 requires them to get a permit to outline what they want to do for their dance. If they do not follow those
13 policies, you end up with a party potentially in a residential neighborhood with several hundred students.
14 On any given evening, the City has only two patrol officers. Asking our officers to walk into a party with
15 several hundred people is not necessarily a safe environment. Stacking a hundred people in a single-
16 family home is also not safe. There would be many violations of the fire code. We have had a number of
17 conversations with the campus and the campus police. We have not found a viable solution yet. We
18 continue to look for solutions. What we can do is try to regulate where they happen and regulate how
19 they are conducted so that they are done in a safe way.
20

21 A no-parking zone was recently created along Sycamore Street from Park Street to the railroad tracks.
22 There have been some complaints that there are too many no-parking signs along the street. Our
23 experience has been that if we put a sign at the beginning of the block, and we put a sign at the end of the
24 block, people park between the signs. When you write them a ticket, they say that there was no sign. A
25 comment was made that an easement was issued to a house on Sycamore Street. The City has not issued
26 an easement to any house on Sycamore Street. We did try to recognize that the occupants of that home
27 have a need to park somewhere. Those homes were built before there were zoning standards that
28 required setbacks, so the front yard is not big enough to create safe parking spaces. That property was
29 granted an exception via the "Resident-Only" parking ordinance.
30

31 Regarding truck routes, there are technically correct steps that we can take to put up truck route signs,
32 and the truckers are going to ignore them whether they have lights on them or not. TxDOT will admit
33 that it is increasingly hard to enforce truck routes. Truckers will use Google Maps, Apple Maps or Ways.
34 If they say "I want to go from point A to point B", they will just follow the line, and the line will have
35 them drive down streets that are not truck routes. Trying to change that to some degree is like trying to
36 stop the tide, but there are some things that we can try to do to improve the situation. You can put up a
37 truck route sign, and you can say you cannot go down there, but there are exceptions that allow them to
38 go down the street. If they are making a delivery, you cannot stop them from using that route, and you
39 cannot write them citations. Unfortunately, the end of North Neal is an industrial customer that has
40 deliveries, and deliveries is one of the exceptions that we under state law cannot stop. At some point, the
41 only ultimate solution would be to rebuild North Neal, widen it and make it more of a throughfare.
42 However, that is not a good solution either. We recognize that truck traffic is a problem, and Mr. Atkins
43 with TxDOT would love to give back to Commerce Park Street so that they would not have to deal with
44 it anymore. However, then the City would have to take over the responsibility for that street and assume
45 the liability for it. The City is struggling to take care of some of our residential streets, much less our
46 state highways.
47

48 • **Finance Update**

49 -Finance Director Jamie Campbell addressed the City Council.

- 50 • **Financials-** As of August 2022, the General Fund is over budget. Revenue is under budget, and
51 Public Utilities is within budget.
52

- 53 • **Property Tax-**As of September 2022, the City has received \$3.37 million in property tax revenue.
54 Overall, the City has met its FY 2022 98% budgeted levy. Also, the City has reached 15% of its
55 collections for delinquent property taxes. Next month we will start over with our new budgeted

1 numbers and have a new section for rebates and abatements that we are anticipating paying
2 throughout the year.

3
4 • **Sales Tax** - As of September 2022, the City has received \$1.41 million in sales tax revenue. This
5 surpasses both budgeted collections and last year's collections. Next month, the graph will start
6 over with new budgetary numbers, as well as information related to sales abatement payments the
7 City is expecting to begin making in FY 2023. In September FY 22, Retail remains the largest
8 category for generating sales tax in Commerce. It accounts for a total of 56.7% of all collections.
9 In Manufacturing the large influx in 2021 was related to a company that is not located in
10 Commerce. These revenues were actually rebated to the vendor through the comptroller in
11 November 2021 and January 2022.

12
13 • **Calendar of Upcoming Events and Meetings**

14 -Director of Administrative Services Molly Jacobsen addressed the City Council.

15 1. Freezing Temperature Tonight – This is unseasonably cold for October in Texas. Don't forget
16 to protect people, plants, pipes and pets.

17
18 2. Early Voting - Hunt County Elections Administration Office, 2217 A Washington St.,
19 Greenville, TX 75401 from October 24th to November 4th Hours: Monday, October 24th to
20 October 28th from 8:00 a.m. to 5:00 p.m. / Saturday, October 29th from 7:00 a.m. to 7:00 p.m. /
21 Sunday, October 30th from 9:00 a.m. to 3:00 p.m. / Monday, October 31st to Friday,
22 November 4th from 7:00 a.m. to 7:00 p.m. / Election Day Voting November 8th from
23 7:00 a.m. to 7:00 p.m. at Commerce City Hall.

24
25 3. Last 13 Days of October (19th to 31st) - Animal adoptions will be 13% off at Commerce Animal
26 Services.

27
28 4. Halloween on the Square - For children ages 14 and under on October 31 from 5:30 p.m. to
29 7:00 p.m. at Downtown Square. Line up by the barber shop and follow the arrows for a
30 ghoulishly good time.

31
32 5. DEA National Rx Takeback-Saturday, October 29th from 10:00 A.M. to 2:00 P.M. Drop off at
33 the Police Department.

34
35 6. Flags of Glory-Honoring Veterans and First Responders, Saturday, November 5th at 10:00 a.m.
36 at City Park & Aldridge. The flags will remain on display the week of Veteran's Day.

37
38 7. Christmas Toy Drive-Sponsored by the Thalian Culture Club, benefits Commerce Lil' Angels,
39 Monday, November 7th from 5:00 p.m. to 7:00 p.m. at front of City Hall, 1119 Alamo St.

40
41 8. Commerce Recycling Day-Sponsored by the Beautification Commission, Saturday, November
42 12th from 9:00 a.m. to 1:00 p.m. at corner of Walnut and Campbell Streets.

43
44 9. Feeding the Community-Free Thanksgiving Lunch for Anyone, Thursday, November 24th from
45 9:00 a.m. to 2:00 p.m. at Omega's, 1814 Monroe Street.

46
47 • **Personnel**

48 -City Manager Howdy Lisenbee said that if anyone wants to start a career in public service, go to the
49 City's website to see vacancies and postings.

50
51 • **Projects Update**

52 -The big excavator at City Park has begun moving dirt for the splash pad. A project board will soon go
53 up that will show what the finished project will look like.

54
55 On Thursday, the City will open bids for the airport fuel farm. One vendor has already submitted a bid,
56 and a couple of more are expected.

1
2 The water treatment plant rehabilitation is still underway. The contractors on site are making very good
3 progress. The plant has six filters, and right now, three of them are down for reconstruction. That project
4 is moving forward very well. We are looking forward to a fully restored capacity at our water treatment
5 plant in the near future.
6

7 The raw water project at Lake Tawakoni is on track to complete ahead of the state's deadline, which is
8 the end of December.
9

10 • **Intergovernmental Events & Issues**

11 Hunt County days in Austin will be March 1 and March 2, 2023. The Hunt County legislative group will
12 be going to Austin to visit our legislators and look at some of the things that are on the docket for
13 consideration by the State Legislature.
14

15 **17. Recess into Executive Session: PURSUANT TO THE OPEN MEETINGS ACT, CHAPTER 551,**
16 **TEXAS GOVERNMENT CODE, THE CITY COUNCIL WILL RECESS INTO EXECUTIVE**
17 **SESSION (CLOSED MEETING) TO DISCUSS THE FOLLOWING:**
18

- 19 • **§551.071(1) and §551.071(2): Consultation with Attorney on a matter in which the duty of**
20 **the attorney to the governmental body under the Texas Disciplinary Rules of Professional**
21 **Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act and**
22 **Consultation with Attorney regarding pending or contemplated litigation.**
23 **-Re: Fraudulent Claims**
24

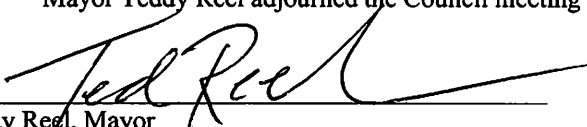
25 Council Member Stephanie Muller made a motion to recess into Executive Session. Mayor Pro Tem
26 Anthony Henry seconded the motion, and it carried unanimously. The Council recessed into Executive
27 Session at 8:05 p.m.

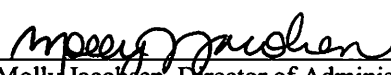
28 **18. Reconvene into Open Session: In accordance with Texas Government Code, Chapter 551, the City**
29 **Council will reconvene into Regular Session to consider any action, if any, on matters discussed in**
30 **Executive Session.**
31

32 The Council reconvened into Open Session at 8:44 p.m.
33

34 **19. Adjourn.**

35 Mayor Teddy Reel adjourned the Council meeting at 8:45 p.m.
36

37
38
39 
Teddy Reel, Mayor

40
41 
42 Molly Jacobsen, Director of Administrative Services
43

44 11/15/2022
45 Date
46

47 10.18.2022.MINS