



The City of Liberty City Council

Regular Meeting

~ Agenda ~

1829 Sam Houston
Liberty, TX 77575
www.cityofliberty.org

April Gilliland
City Secretary
936-336-3684

Tuesday, January 25, 2022

6:00 PM

City Council Chambers

The City Council of Liberty, Texas reserves the right to meet in closed session on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551 of the Texas Government Code.

I. CALL TO ORDER

Attendee Name	Present	Absent	Late	Arrived
Mayor Carl Pickett				
Mayor Pro Tem Diane Driggers				
Council Member Dennis Beasley				
Council Member Libby Simonson				
Council Member David Arnold				
Council Member Chipper Smith				
Council Member Neal Thornton				

II. ACKNOWLEDGEMENT OF GUESTS AND VISITORS / PUBLIC COMMENT

Public Comment is reserved for members of the public who would like to address the City Council regarding agenda and non-agenda items. Please be aware that, under Texas Law, the Council may not deliberate or take any action during Citizen's comments for items not on the agenda. In some situations, City Staff may be able to respond to the public comment with a factual statement or clarification. The City Council may have the item placed on a future agenda for action or refer the item to Management and Staff for study or conclusion.

III. CONSENT AGENDA

All consent items listed are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council Member so requests, and if such a request is made, the item will be removed from the Consent Agenda and considered in a normal sequence on the agenda.

A. Minutes Approval

1. 1.11.2022 Council Minutes

IV. REGULAR AGENDA

A. Regular Session

1. AN ORDINANCE OF THE CITY COUNCIL OF LIBERTY, TEXAS, AUTHORIZING PARTICIPATION WITH OTHER ENTERGY SERVICE AREA CITIES IN MATTERS CONCERNING ENTERGY TEXAS, INC. AT THE PUBLIC UTILITY COMMISSION OF TEXAS IN 2022; AUTHORIZING THE HIRING OF LAWYERS AND RATE EXPERTS; AUTHORIZING THE CITY'S PARTICIPATION TO THE FULL EXTENT PERMITTED BY LAW AT THE PUBLIC UTILITY COMMISSION OF TEXAS; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; AND DECLARING AN EFFECTIVE DATE
2. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LIBERTY, TEXAS ORDERING A GENERAL MUNICIPAL ELECTION TO BE HELD ON THE 7TH DAY OF MAY, 2022 FOR THE PURPOSE OF ELECTING A MAYOR AND THREE COUNCILMEMBERS; PROVIDING FOR AN EFFECTIVE DATE;

UNA ORDENANZA DEL CONCEJO MUNICIPAL DE LA CIUDAD DE LIBERTY, TEXAS, QUE ORDENA LA CELEBRACIÓN DE UNAS ELECCIONES MUNICIPALES GENERALES PARA EL DÍA 7 DE MAYO DE 2022 CON EL PROPÓSITO DE ELEGIR UN ALCALDE Y TRES CONCEJALES; QUE DISPONE UNA FECHA DE ENTRADA EN VIGOR;

B. Work Session

1. Discussion of Swamp Smoke Restaurant Proposal and 380 Agreement.
2. Discussion of the 2022 Liberty Jubilee

C. Second Reading - A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF LIBERTY, TEXAS, A HOME RULE MUNICIPALITY EXISTING UNDER THE LAWS OF THE STATE OF TEXAS; SAID RESOLUTION AUTHORIZING AN AWARD AND DISBURSEMENT OF LIBERTY COMMUNITY DEVELOPMENT CORPORATION FUNDS FOR AN ECONOMIC DEVELOPMENT GRANT TO SWAMPSMOKE, LLC.

D. Executive Session

1. **Texas Government Code §551.071 - Private Consultation with Attorney.**
 - To seek advice regarding contemplated /pending litigation.

E. Reconvene into Regular Session

V. ADJOURNMENT

A. Motion To: Adjourn

I certify that the attached Notice of Meeting was posted on the bulletin board and in the Message Centers located on the east and west sides of the City Hall Administration Building, located at 1829 Sam Houston on the 21st day of January, 2022 at 5:00 p.m. This notice will remain so posted continuously for at least 72 hours preceding the scheduled time of said meeting in accordance with Chapter 551 of the Texas Government Code.

April Gilliland

April Gilliland, City Secretary

NOTICE

In compliance with the Americans with Disabilities Act, the City of Liberty will provide reasonable accommodation for persons attending and/or participating in this Council Meeting. To better serve you, requests must be made at least 24 hours prior to the meeting. Contact the City at (936) 336-3684 or by Fax at (936) 336-9846. The building is wheelchair accessible, with parking available, on the west side of the building.

I certify that the attached Notice and Agenda of items to be considered by the City Council was removed by me from the bulletin board at the City Hall on the _____ day of _____, ____.



The City of Liberty City Council

Regular Meeting

~ Minutes ~

1829 Sam Houston
Liberty, TX 77575
www.cityofliberty.org

April Gilliland
City Secretary
936-336-3684

Tuesday, January 11, 2022

6:00 PM

City Council Chambers

I. CALL TO ORDER

This meeting was called to order on January 11, 2022 in the City Council Chambers, 1829 Sam Houston Street, Liberty, Texas at 6:00 p.m. by Mayor Carl Pickett.

Attendee Name	Present	Absent	Late	Arrived
Mayor Carl Pickett	X			
Mayor Pro Tem Diane Driggers	X			
Council Member Dennis Beasley	X			
Council Member Libby Simonson		X		
Council Member David Arnold	X			
Council Member Chipper Smith	X			
Council Member Neal Thornton	X			

II. INVOCATION

Invocation was given by Liberty County Judge, Jay Knight.

III. PLEDGE OF ALLEGIANCE

The Pledge to the American Flag was led by Assistant City Manager / Community Development Chris Jarmon and the pledge to the Texas Flag was led by Assistant City Manager / CFO Naomi Herrington.

IV. ACKNOWLEDGEMENT OF GUESTS AND VISITORS / PUBLIC COMMENT

Public Comment is reserved for members of the public who would like to address the City Council regarding agenda and non-agenda items. Please be aware that, under Texas Law, the Council may not deliberate or take any action during Citizen's comments for items not on the agenda. In some situations, City Staff may be able to respond to the public comment with a factual statement or clarification. The City Council may have the item placed on a future agenda for action or refer the item to Management and Staff for study or conclusion.

Mayor Pickett welcomed guests and visitors, opening the floor for public comment to individuals wishing to address the Council about items not on the agenda. There were no comments.

V. PRESENTATIONS / REPORTS

A. City Manager's Report - City Manager Tom Warner - Topics include Wastewater Treatment Plant, Covid-19, Humphreys Cultural Center and Electric Projects.

City Manager Tom Warner reported on the following updates:

- Wastewater Treatment Plant Flood Mitigation Improvements and Outfall Replacement Project
- COVID-19
- Humphreys Cultural Center Repairs
- Upcoming Electrical System projects for Fiscal Year 2021-2022
- Electrical System projects currently underway
- Jubilee 2022

B. Finance Report - Assistant City Manager / CFO Naomi Herrington

Assistant City Manager / CFO Naomi Herrington reported on the City's financials as of November 30, 2021.

C. Department Reports

Monthly reports are submitted by all departments and are attached to the agenda for the Council's review and any questions the Council may have.

D. Sam Rayburn Municipal Power Agency - Mayor Pickett

Mayor Pickett, President of the Sam Rayburn Municipal Power Agency, stated that the next meeting is scheduled for Tuesday, January 19, 2022 in Livingston.

E. Mayor, Council and Staff Comments

Candidate packets for the May 7, 2022 General Election are available for pickup. Filing for Place on the Ballot begins January 19, 2022.

VI. CONSENT AGENDA

All consent items listed are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council Member so requests, and if such a request is made, the item will be removed from the Consent Agenda and considered in a normal sequence on the agenda.

A motion was made by Council Member Beasley to approve all items on the consent agenda and seconded by Council Member Driggers. The motion passed 6 to 0 with all present voting yes and Council member Simonson absent.

A. Minutes Approval

1. 12/14/2021 Council Minutes

VII. REGULAR AGENDA

A. Executive Session

At 6:33 p.m., Mayor Pickett closed the open meeting and opened the Executive Session as authorized by Title 5, Chapter 551 of the Texas Government Code.

1. **Texas Government Code §551.087 - Deliberation Regarding Economic Development Negotiations.**
- Discussion regarding economic development matters

B. Regular Session

At 7:18 p.m., Mayor Pickett closed the Executive Session and reconvened the open meeting.

1. Consider and take possible action on permit fees for the Liberty County Sheriff's Department facility.

No action was taken.

2. First reading - A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF LIBERTY, TEXAS, A HOME RULE MUNICIPALITY EXISTING UNDER THE LAWS OF THE STATE OF TEXAS; SAID RESOLUTION AUTHORIZING AN AWARD AND DISBURSEMENT OF LIBERTY COMMUNITY DEVELOPMENT CORPORATION FUNDS FOR AN ECONOMIC DEVELOPMENT GRANT TO SWAMPSMOKE, LLC.

Mayor Pickett read the caption of the resolution with the City Attorney, Brandon Davis, reading the full resolution. After some discussion with the City Council, it was decided to pass on the second reading and bring back more details on the business before approving.

3. Second Reading - A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF LIBERTY, TEXAS, A HOME RULE MUNICIPALITY EXISTING UNDER THE LAWS OF THE STATE OF TEXAS; SAID RESOLUTION AUTHORIZING AN AWARD AND DISBURSEMENT OF LIBERTY COMMUNITY DEVELOPMENT CORPORATION FUNDS FOR AN ECONOMIC DEVELOPMENT GRANT TO SWAMPSMOKE, LLC.

Agenda item was passed on and will be brought back at a future meeting.

4. A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF LIBERTY, TEXAS, A HOME RULE MUNICIPALITY EXISTING UNDER THE LAWS OF THE STATE OF TEXAS, APPROVING AN INTERLOCAL AGREEMENT WITH LIBERTY COUNTY PRECINCT ONE (1) FOR THE MAINTENANCE OF STREETS, ROADS, DITCHES AND RECREATIONAL AREAS.

A motion was made by Council Member Driggers to approve the interlocal agreement with Liberty County Precinct one for maintenance and seconded by Council Member Thornton. The motion passed 6 to 0 with all present voting yes and Council member Simonson being absent.

5. A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF LIBERTY, TEXAS, A HOME RULE MUNICIPALITY EXISTING UNDER THE LAWS OF THE STATE OF TEXAS, REJECTING THE BID RECEIVED FOR THE 2021 – 2022 CITY WIDE STREET REHABILITATION PROJECT.

A motion was made by Council Member Arnold to approve the rejection of the bid received for the 2021-2022 city wide street rehabilitation project and seconded by Council Member Beasley. The motion passed 6 to 0 with all present voting yes and Council member Simonson being absent.

6. AN ORDINANCE AMENDING ARTICLE 4.09 OF THE CODE OF ORDINANCES; REGULATING MOBILE FOOD VENDORS AND MOBILE FOOD VENDOR PARKS; PROVIDING FOR A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING

FOR AN EFFECTIVE DATE.

A motion was made by Council Member Arnold to adopt the ordinance establishing rules and regulations for Mobile Food Truck parks and seconded by Council Member Thornton. The motion passed 6 to 0 with all present voting yes and Council member Simonson being absent.

7. **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LIBERTY, TEXAS, AMENDING THE MASTER FEE SCHEDULE BY ADDING A ONE-TIME LICENSE FEE FOR MOBILE FOOD TRUCK PARKS; AND PROVIDING FOR AN EFFECTIVE DATE.**

A motion was made by Council Member Smith to adopt the ordinance adding a one-time license fee for Mobile Food Truck Parks and seconded by Council Member Thornton. The motion passed 6 to 0 with all present voting yes and Council member Simonson being absent.

8. **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LIBERTY, TEXAS, AUTHORIZING THE SUBMISSION OF A COMMUNITY DEVELOPMENT BLOCK GRANT - CARES ACT APPLICATION TO THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS FOR THE COMMUNITY RESILIENCY PROGRAM; AND AUTHORIZING THE MAYOR AND THE CITY MANAGER TO ACT AS THE CITY'S EXECUTIVE OFFICERS AND AUTHORIZED REPRESENTATIVES IN ALL MATTERS PERTAINING TO THE CITY'S PARTICIPATION IN THE COMMUNITY DEVELOPMENT BLOCK GRANT CARES ACT PROGRAM.**

At 7:58 p.m., Mayor Pickett opened the Public Hearing in regard to the submission of an application to the Texas Department of Housing and Community Affairs (TDHCA) for a Community Resiliency Program application associated with the community Development Block Grant Cares Act Program. The discussion began with Patrick Wiltshire from Public Management providing details regarding the grant and application to be submitted. No citizens attended to provide public comment. After a brief discussion, Mayor Pickett closed the Public Hearing at 8:02 p.m.

A motion was made by Council Member Beasley to approve the resolution authorizing the submission of a Community Development Block Grant - CARES Act Application. The motion was seconded by Council Member Arnold. The motion passed 6 to 0, with all present members voting Yes and Council Member Simonson being absent.

9. **A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF LIBERTY, TEXAS, A HOME RULE MUNICIPALITY EXISTING UNDER THE LAWS OF THE STATE OF TEXAS, AUTHORIZING THE ELECTION SERVICES CONTRACT BETWEEN THE LIBERTY COUNTY ELECTIONS ADMINISTRATOR OFFICE AND THE CITY OF LIBERTY.**

A motion was made by Council Member Driggers to approve the Election Services Contract with the Liberty County Elections Administrator Office for the May 7, 2022 Election. The motion was seconded by Council Member Thornton. The motion passed 6 to 0, with all present members voting Yes and Council Member Simonson being absent.

C. Executive Session

At 8:11 p.m., Mayor Pickett closed the open meeting and opened the Executive Session as authorized by Title 5, Chapter 551 of the Texas Government Code.

1. **Texas Government Code §551.087 - Deliberation Regarding Economic Development Negotiations.**

- To discuss or deliberate regarding commercial or financial information received from a business prospect.

- Business Proposals

2. Texas Government Code §551.071 - Private Consultation with Attorney.

- To seek advice regarding contemplated /pending litigation.

D. Reconvene into Regular Session

At 8:52 p.m., Mayor Pickett closed the Executive Session and reconvened the open meeting.

No Action was taken on executive session items.

VIII. ADJOURNMENT

A. Motion To: Adjourn

With no further business to discuss, Mayor Pickett adjourned the meeting at 8:53 p.m.

Carl Pickett, Mayor

ATTEST:

April Gilliland, City Secretary

CITY OF LIBERTY

City Council Agenda Item Form

Council Meeting Date: January 25, 2022

Agenda Wording: AN ORDINANCE OF THE CITY COUNCIL OF LIBERTY, TEXAS, AUTHORIZING PARTICIPATION WITH OTHER ENTERGY SERVICE AREA CITIES IN MATTERS CONCERNING ENTERGY TEXAS, INC. AT THE PUBLIC UTILITY COMMISSION OF TEXAS IN 2022; AUTHORIZING THE HIRING OF LAWYERS AND RATE EXPERTS; AUTHORIZING THE CITY'S PARTICIPATION TO THE FULL EXTENT PERMITTED BY LAW AT THE PUBLIC UTILITY COMMISSION OF TEXAS; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; AND DECLARING AN EFFECTIVE DATE

Department: Administration

Subject: Entergy 2022 Regulatory Proceedings

Background: Each year, a coalition of cities have joined together through a municipal participation ordinance in regulatory rate proceedings involving Entergy, Texas, Inc. (ETI) before the Public Utility Commission of Texas. The Steering Committee of Cities has played a crucial role in limiting Entergy's various rate increases to reasonable revenue levels. Approval of the proposed ordinance will allow the City to continue as a member of the Steering Committee for one year. It is anticipated in 2022, ETI will file a base rate case due to the size of the Generation Cost Recovery Rider, a fuel reconciliation case, which will include fuel costs incurred during Winter Storm URI and file its annual application to amend its Energy Efficiency Cost Recovery Factor and the semi-annual Fuel Factor Rate Adjustment.

Funding Source: na

Staff Recommendation: Staff recommends approval of the ordinance authorizing the City's participation in Regulatory Proceedings of Entergy Texas, Inc. in 2022.



The City of Liberty

City Council
1829 Sam Houston
Liberty, TX 77575

Meeting: 1/25/2022 6:00 PM

Department: Administration
Category: Ordinance

Ordinance

AN ORDINANCE OF THE CITY COUNCIL OF LIBERTY, TEXAS, AUTHORIZING PARTICIPATION WITH OTHER ENTERGY SERVICE AREA CITIES IN MATTERS CONCERNING ENTERGY TEXAS, INC. AT THE PUBLIC UTILITY COMMISSION OF TEXAS IN 2022; AUTHORIZING THE HIRING OF LAWYERS AND RATE EXPERTS; AUTHORIZING THE CITY'S PARTICIPATION TO THE FULL EXTENT PERMITTED BY LAW AT THE PUBLIC UTILITY COMMISSION OF TEXAS; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; AND DECLARING AN EFFECTIVE DATE

WHEREAS, Cities have exclusive original jurisdiction over rates, operations, and services of an electric utility in areas in the municipality pursuant to *Tex. Util. Code* § 33.001; and

WHEREAS, Cities have standing in each case before the Public Utility Commission of Texas that relates to an electric utility providing service in the municipality pursuant to *Tex. Util. Code* § 33.025; and

WHEREAS, Entergy Texas, Inc. ("ETI" or "Company") is expected to litigate rate change requests in various proceedings before the Public Utility Commission of Texas ("Commission") or before municipalities in 2022, which may include (1) a base rate case, (2) rate proceedings or cost adjustments such as a transmission cost recovery rider, a distribution cost recovery rider, a generation cost recovery rider, energy efficiency cost recovery factor, or hurricane restoration cost or offset true-ups, (3) and various fuel cost refunds or surcharges and reconciliations; and

WHEREAS, ETI is expected to file a statement of intent to increase its base rates with municipalities and the Commission in 2022; and

WHEREAS, ETI is scheduled to file fuel factor proceedings at the Commission in February and August 2022, and may file other fuel proceedings to reconcile, refund, or surcharge fuel charges; and

WHEREAS, ETI is expected to file its annual proceeding with the Commission to recover costs incurred in association with its Energy Efficiency Plan as well as reconcile past costs; and

WHEREAS, Cities have the statutory right to set fair and reasonable rates for both the Company and customers within Cities; and

WHEREAS, Cities are entitled to reimbursement by the utility of their reasonable rate case expenses to participate in cases that are deemed rate proceedings pursuant to *Tex. Util. Code* § 33.023.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF

LIBERTY, TEXAS, that:

SECTION 1. The City of Liberty shall participate with other Cities to intervene in ETI's various rate filings related to the various fuel cost surcharges and reconciliations, any interim or incremental surcharge proceedings or surcharge adjustments, and for any base rate adjustment proceedings or cost of service adjustments on file with the Commission or with municipalities in 2022.

SECTION 2. The City of Liberty employs the Lawton Law Firm P.C. to represent the City regarding the ETI rate matters before local regulatory authorities and the Commission and any court of law and authorizes counsel to employ rate experts as are recommended by the Cities' Steering Committee to intervene in fuel or rate related proceedings at the Commission concerning ETI's rates charged to Texas customers.

SECTION 3. All such actions shall be taken pursuant to the direction of the Cities' Steering Committee. Cities' Steering Committee shall have authority to retain rate consultants and lawyers. Cities' Steering Committee shall direct the actions of Cities' representatives in the above proceedings. The Steering Committee is directed to obtain reimbursement from ETI of all reasonable expenses associated with participation in said proceedings.

SECTION 4. The meeting at which this Ordinance was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

SECTION 5. This Ordinance shall be effective from and after the date of its passage.

PASSED by _____ vote of the City Council of the City of Liberty, Texas, this
____ day of _____ 2022.

Mayor
City of Liberty, Texas

ATTEST:

City Secretary
City of Liberty, Texas

CITY OF LIBERTY

City Council Agenda Item Form

Council Meeting Date: January 25, 2022

Agenda Wording: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LIBERTY, TEXAS ORDERING A GENERAL MUNICIPAL ELECTION TO BE HELD ON THE 7TH DAY OF MAY, 2022 FOR THE PURPOSE OF ELECTING A MAYOR AND THREE COUNCILMEMBERS; PROVIDING FOR AN EFFECTIVE DATE;

UNA ORDENANZA DEL CONCEJO MUNICIPAL DE LA CIUDAD DE LIBERTY, TEXAS, QUE ORDENA LA CELEBRACIÓN DE UNAS ELECCIONES MUNICIPALES GENERALES PARA EL DÍA 7 DE MAYO DE 2022 CON EL PROPÓSITO DE ELEGIR UN ALCALDE Y TRES CONCEJALES; QUE DISPONE UNA FECHA DE ENTRADA EN VIGOR;

Department: Administration

Subject: General Election Order

Background: This Ordinance calls for an election to be held on May 7, 2022 for the purpose of electing a Mayor and three (3) City Council Members.

Those Council Members whose terms expire in May are: Mayor Carl Pickett and Council Members David Arnold, Chipper Smith and Neal Thornton.

Funding Source: General Fund

Staff Recommendation:



The City of Liberty

City Council
1829 Sam Houston
Liberty, TX 77575

Meeting: 1/25/2022 6:00 PM

Department: Administration
Category: Ordinance

Ordinance

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LIBERTY, TEXAS ORDERING A GENERAL MUNICIPAL ELECTION TO BE HELD ON THE 7TH DAY OF MAY, 2022 FOR THE PURPOSE OF ELECTING A MAYOR AND THREE COUNCILMEMBERS; PROVIDING FOR AN EFFECTIVE DATE;

UNA ORDENANZA DEL CONCEJO MUNICIPAL DE LA CIUDAD DE LIBERTY, TEXAS, QUE ORDENA LA CELEBRACIÓN DE UNAS ELECCIONES MUNICIPALES GENERALES PARA EL DÍA 7 DE MAYO DE 2022 CON EL PROPÓSITO DE ELEGIR UN ALCALDE Y TRES CONCEJALES; QUE DISPONE UNA FECHA DE ENTRADA EN VIGOR;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LIBERTY, TEXAS THAT:

Section 1.

It is hereby ordered that a General Election be held in the City of Liberty, Texas on the first Saturday in May, the 7th day of May, 2022, at which election the qualified voters of the City will elect a Mayor and three (3) Council Members which shall hold office for a period of two (2) years, and which are all at-large positions.

Section 2.

The Joint Election Agreement with Liberty ISD and the Election Services Agreement with Liberty County are both approved. That the election be held jointly between the City of Liberty, Liberty Independent School District, and any other contracting entities, and said election shall be conducted by the Liberty County Elections Administrator as stated per the terms of the 2022 Joint Election Agreement with Liberty ISD and the Elections Services Contract.

Section 3.

The present boundaries of the City of Liberty constitute one election precinct, and the polls shall be open for voting on Election Day from 7:00 a.m. until 7:00 p.m. at the following polling place.

POLLING PLACE:

Jack Hartel Building
318 San Jacinto Street
Liberty, Texas 77575

Section 4.

Klint Bush, Liberty County Elections Administrator, shall act as Contracting Officer and Early

Voting Clerk. The location for Early Voting for such election is hereby designated as:

Jack Hartel Building
318 San Jacinto Street
Liberty, Texas 77575

Early voting by personal appearance shall be conducted on weekdays beginning Monday, April 25, 2022 and continuing through Tuesday, May 3, 2022. Other early voting polling locations will be described in the 2022 Election Services Contract. As required under Section 85.005(d), the Texas Election Code, early voting by personal appearance, at the early voting polling place, shall be conducted for at least 12 hours on two weekdays, if the early voting period consists of six or more weekdays. The City of Liberty received approval from the U.S. Department of Justice, in a letter dated April 29, 2009, that the City's two 12-hour days of early voting be held on the last two days of this period, for all future elections beginning with the May 9, 2009 Election. Therefore, Early Voting by Personal Appearance shall be conducted for 12 hours on the last two days of the 2022 early voting period, which falls on Monday, May 2, 2022 and Tuesday, May 3, 2022.

The Election Administrator's address to which ballot applications and ballots voted by mail may be sent is:

Klint Bush, Liberty Co. Elections Administrator
Liberty County Courthouse
1915 Trinity Street
Liberty, Texas 77575

All requests for early voting ballots by mail that are received by the City of Liberty will be transported on the day of receipt to Klint Bush, Liberty Co. Elections Administrator, Liberty County Courthouse, 1915 Trinity Street, Liberty, Texas 77575.

Election officials for the City's Early Voting and Election Day Polling Locations shall be designated by the Contracting Officer, in accordance with the provisions of the Texas Election Code.

Section 5.

All election equipment, election supplies, and election services used to coordinate, supervise, and administer the Joint Election shall be in accordance with the provisions of the Texas Election Code. The Verity Voting System shall be used for Early Voting and voting on Election Day. Each Election Day polling location will have at least one Verity Touch with Verity Access interface that is accessible to disabled voters. The Contracting Officer shall prepare the Verity Voting System for polling locations during Early Voting and on Election Day. Election materials as outlined in Section 272.005, Texas Election Code, shall be printed in both English and Spanish for use at the polling place and for Early Voting and Election Day for said election.

Section 6.

Notice of this election shall be published in the official newspaper of the City not earlier than the 30th day or later than the 10th day before election day, and shall be posted in the place used to post notice of City Council Meetings not later than the 21st day before election day, in accordance with the provisions of the Texas Election Code.

Section 7.

Said election shall be held in accordance with the Texas Election Code and the Federal Voting Rights Act of 1965, as amended. The Mayor and/or City Secretary and the City Attorney are hereby authorized and directed to make any filings required by the Federal Voting Rights Act. The Mayor and/or City Secretary and the City Attorney are further authorized and directed to take any action necessary to comply with provisions of the Texas Election Code, the Federal Voting Rights Act and the terms and provisions of the 2022 Joint Election Agreement and the Election Services Contract.

Section 8.

That if any section, subsection, sentence, clause, or phrase of this ordinance should for any reason be held to be unconstitutional or invalid by a court of competent jurisdiction, such invalidity shall not affect the remaining portions of this ordinance, and to such end the various portions and provisions of this ordinance are declared to be severable; and the City Council of the City of Liberty, Texas, declares it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 9.

This Ordinance shall be in full force and effect from and after the date of its passage.

PASSED AND ADOPTED at a meeting of the City Council of the City of Liberty, on this 25th day of January, 2022.

Mayor
City of Liberty, Texas

ATTEST:

City Secretary
City of Liberty, Texas

CITY OF LIBERTY

City Council Agenda Item Form

Council Meeting Date: January 25, 2022

Agenda Wording: Discussion of Swamp Smoke Restaurant Proposal and 380 Agreement.

Department: Administration

Subject:

Background:

Funding Source:

Staff Recommendation:

From: [Chad Finch](#)
To: [Chris Jarmon](#)
Subject: 2200 Dr MLK Dr
Date: Wednesday, October 13, 2021 7:29:02 AM

Good morning Mr. Jarmon

I wanted to reach out to you to discuss my project at 2200 Dr MLK. As I have told you before, my project consists of a 2400 ft² entertainment and food venue. I am currently working with A&K metal buildings on an engineered building that will be erected there. Cost estimates on this project are between \$150,000 to \$200,000. My assumption is that the tax value for the city will be comparable numbers. My goal is to be up and running within the next 6 months. I will employ at a minimum 4 people, up to 8. In a classic case of "you are unaware of what you are unaware of", I have run into a bit of financial concerns. With the increase and construction cost and contractor cost, and extreme delays on availability, my budget has exceeded what I anticipated. My hope was any type of contribution or consideration from the City of Liberty EDC or comparable entity. It is my sincere belief that this project will help the City of Liberty significantly. It will provide an additional place to eat and a much needed entertainment area. Thanks in advance for any consideration or feedback.

Sincerely,

Chad Finch
361 688-5214

PERFORMANCE INCENTIVE AGREEMENT FOR
BUSINESS AND COMMERCIAL DEVELOPMENT

This Agreement is made by and between the Liberty Community Development Corporation (sometimes hereinafter referred to as “LCDC”), a nonprofit corporation organized under the authority of the Development Corporation Act and the Texas Constitution, Article III, Section 51-a, acting by and through its duly constituted board of directors, and Swamp Smoke, LLC (sometimes hereinafter referred to as “RESTAURANT”), a limited liability company qualified to do business in Texas, governed by managers, acting by and through _____, its Chief Executive Officer.

LCDC has as its primary purpose the creation of programs and the making of performance incentives, consisting of loans and grants of public money for development and diversification of the economy of the City of Liberty, Texas (sometimes hereinafter referred to as the “City”). Among its specific purposes are to undertake projects for developing facilities to promote new business development and commercial and business-related improvements.

RESTAURANT represents that it contemplates building an approximately 2,400 square-foot restaurant and entertainment venue located at 2200 Dr. Martin Luther King Jr. Dr. in Liberty (sometimes hereinafter referred to as the “Project”), that will be of significant economic consequence to the City, with the expectation of its being an event of causative effect with regard to other expansion and new establishments and a generator of additional job opportunities within the City.

RESTAURANT estimates the hard construction cost of the restaurant to be no less than \$200,000 for the building, furniture, fixtures, and equipment.

RESTAURANT plans to hire no less than four (4) staff over the course of the first two (2) years of this agreement.

However, RESTAURANT, in order to be able to continue to undertake the development of the restaurant business and finance the costs thereof, must have a contribution from some outside source for the specific purpose of financing a portion of the Project. Specifically, RESTAURANT seeks a grant from the LCDC in the amount of \$25,000. The Project shall be located at 2200 Dr. Martin Luther King Jr. Drive in Liberty, Texas (the "Property"). LCDC, pursuant to its authority and in pursuit of its goals, is desirous of making an incentive in the form of a monetary grant for these purposes, the result of which will be the creation of a facility that will promote new business development and job opportunities.

Therefore, subject to the conditions set forth hereinafter, the LCDC and RESTAURANT agree as follows:

RESTAURANT has indicated that it has acquired title to the real estate on which the Project will be built. It shall present its recorded Deed to LCDC as demonstration thereof no later than February 1, 2022.

LCDC shall have the option to declare this Performance Incentive Agreement for Business and Commercial Development terminated in the event the above condition required for the performance incentive has not been met. Conditioned on the successful performance of the above-described requirement, and subject to the same rights and responsibilities as set forth hereinafter, LCDC and RESTAURANT make the following agreements.

Upon completion of the facility and improvements, and upon presentation by RESTAURANT to LCDC of its Certificate of Occupancy, which presentation must be on or before January 1, 2023, LCDC will grant to RESTAURANT TWENTY-FIVE THOUSAND

DOLLARS (\$25,000.00). LCDC shall make said grant payment to RESTAURANT within ninety (90) days of RESTAURANT obtaining its certificate of occupancy.

RESTAURANT understands that creation and maintaining of jobs is central to the goals of the development of the LCDC. Therefore, after facility construction and the starting of operations, but no later than June 1, 2023, RESTAURANT shall create and fill, as verified to the sole satisfaction of the LCDC, no less than four (4) jobs (inclusive of full-time and part-time employees), excluding corporate level personnel. RESTAURANT shall maintain said employment level for at least two (2) years following the opening of the restaurant. For the purposes of this incentive grant, “full time” employees shall mean employees working on the site at least thirty (30) hours per week, each receiving an hourly pay of at least ten dollars (\$10.00).

The LCDC will verify the adherence by RESTAURANT to the above requirements. The verification process will be commenced at any time during the aforesaid two (2) year period (or extension thereof) within fourteen (14) days of written notice by LCDC to RESTAURANT and will conclude at a time solely within the discretion of LCDC. As a further condition of receiving the incentive grant funds, RESTAURANT will cooperate with LCDC in the verification process and will comply with all requests for information by LCDC in its verification process. The failure or inability of RESTAURANT to prove to the sole satisfaction of LCDC at any time during the aforesaid two (2) year period that it has met its employment requirement, the following provisions shall apply.

As a condition of this grant, RESTAURANT agrees to build and open a restaurant and entertainment facility on the Property in Liberty, Texas within the time period specified herein. The hard construction cost for the Project, including the building, furniture, fixtures, and equipment, shall be no less than \$200,000.00.

However, the funding of the grant shall be further conditioned on the occurrences of the following matters.

1. This Performance Incentive Grant Agreement shall be fully executed on or before _____.
2. The City Council of the City of Liberty shall have timely approved the project, including the grant.
3. LCDC shall have successfully completed all procedural legal requirements to be authorized to make the grant, at least one of which being not in the control of LCDC, i.e.: the possibility of an election in which an objection to the grant is approved by the public; however, the LCDC does not guarantee and shall not be liable for damages in the event the legal procedural requirements are not successfully completed for whatever reason.
4. Subject to the above conditions, funding shall in no event be prior to the conclusion of the sixty-day waiting period as provided by law.
5. In order to receive said Grant funds RESTAURANT must receive a certificate of occupancy within the time period set out herein.
6. All City of Liberty services and taxes must be paid in full, must be current, and RESTAURANT must be in good standing with the City of Liberty prior to the receipt of the grant proceeds and for the five (5) year period after receipt of the grant funds.
7. The funds must be used directly on the development of the restaurant establishment.
8. RESTAURANT further agrees that after receipt of the incentive funds any one of the following events shall be a breach of this Agreement and shall obligate it to

immediately repay all incentive funds to LCDC, together with interest at the rate of ten percent (10%) per annum from date of receipt, along with LCDC's attorneys' fees.

(A) Failure to expend project incentive funds for the development and improvement of the Liberty facility for the purpose of creating jobs or failure to use such grant funds for repayment of indebtedness, the original proceeds of which were used for the development and improvement of the Liberty facility.

(B) The incentive is found to be void or voidable for whatever reason, either by court decree or order or settlement of a claim related thereto which LCDC in its sole discretion or judgment, chooses to enter.

(C) RESTAURANT's allowing any of its sales tax or ad valorem tax obligations related to the project to become delinquent, regardless of subsequent payments.

(D) RESTAURANT's closure of its operation within five (5) years of date of first opening to the public.

(E) The sale or transfer of ownership of all or substantially all of the assets or ownership interest of RESTAURANT to any other entity or person without prior written approval of the LCDC, whether voluntary or other reorganization or bankruptcy, within five (5) years of the start of services to the public. Such approval or refusal to approve shall be in the sole discretion of the LCDC.

(F) Failure to maintain the employee levels set forth in this agreement.

(G) Breach of any term of this Grant Agreement.

Other than attorney's fees, costs, and interest, no damages beyond the amount of the Incentive funds are contemplated to be owed by either party hereto to the other for a breach of this Agreement.

Any prospective obligation of LCDC shall be void and of no further force and effect in the event of RESTAURANT's insolvency, assignment for benefit of creditors, bankruptcy, or any circumstance that would reasonably cause serious doubt about the continued viability of RESTAURANT or its Liberty restaurant enterprise.

Time is of the essence in the Performance Incentive Agreement.

LCDC is a corporation created by a political subdivision of the State of Texas and as such is subject to laws unique to such entities. In the event at any time any such law prohibits LCDC from performing an act required in this agreement, the law shall prevail and LCDC shall not be in default as a result thereof.

This Agreement shall be construed and governed by the laws of the State of Texas, and shall be performable in Liberty County, Texas.

This Agreement may be amended only in writing by the mutual consent of all of the parties, evidenced by all necessary and proper corporate and governing authority. No waiver of any provision of this Agreement shall arise from any action or inaction of LCDC, except an instrument in writing expressly waiving the provision executed by LCDC, the party entitled to the benefit of the provision.

This agreement, together with any documents and exhibits given or delivered pursuant to this agreement, constitutes the entire agreement between the parties to this agreement. No party shall be bound by any communications between them on the subject matter of this agreement unless the communication is (a) in writing, (b) bears a date contemporaneous with or subsequent

to the date of this agreement, and (c) is agreed to by all parties to this agreement and as to LCDC, acting by and through its Board of Directors. On execution of this agreement, all prior agreements or understandings between parties concerning the matters contained herein shall be null and void.

This agreement may be executed in multiple counterparts.

Signed this _____ day of _____, 20_____.

Swamp Smoke, LLC.

LIBERTY COMMUNITY
DEVELOPMENT CORPORATION

By: _____

By: _____

Name: _____

Name: Dennis Beasley

Title: _____

Title: President

THE STATE OF TEXAS §

COUNTY OF _____ §

This instrument was acknowledged before me on this _____ day of _____, 202__, by _____,

Chief Executive Officer of, Swamp Smoke, LLC, on behalf of said entity.

Notary Public, State of Texas

THE STATE OF TEXAS §
COUNTY OF LIBERTY §

 This instrument was acknowledged before me on this _____ day of
_____, 202____, by Dennis Beasley, President of, the LIBERTY COMMUNITY
DEVELOPMENT CORPORATION, on behalf of said entity.

Notary Public, State of Texas







CITY OF LIBERTY

City Council Agenda Item Form

Council Meeting Date: January 25, 2022

Agenda Wording: Discussion of the 2022 Liberty Jubilee

Department: Administration

Subject:

Background:

Funding Source:

Staff Recommendation:

**2022 JUBILEE
DISCUSSION ITEMS
January 25, 2022**

1. Date - March 25 & 26, 2022
2. COVID – 19
 - a. Current outbreak anticipated to peak by next month
 - b. Recent strain tends to impact greater number of children
 - c. Vaccinated persons symptoms are typical less severe
 - d. Current CDC Recommendations
 - i. Isolate for 5 days
 - ii. Wear mask for 5 days
3. Event Insurance
 - a. Typically for weather cancellation
 - b. Covid-19 Exclusion
4. Entertainment
 - a. Impact of Cancellation After Booking
 - i. Loss of Deposit
 - ii. Deposit typical 50% of total cost
5. Vendors
 - a. Impact of Cancellation After Scheduling
 - i. Purchase of Wares
 - ii. Loss Revenue
6. City
 - a. Employees
 - i. 85% of all city employees work event
 - ii. Departments with three or more employees out at one time with COVID-19 will begin to impact overall City Services
 - b. Costs
 - i. Financed by HOT Tax
 - ii. Average HOT Tax Revenue last 3-years - \$47,900
 - iii. Average Expenditures exceeds Revenues last 4-years - \$51, 200/yr.

Account Name	2015-2016		2016-2017		2017-2018		2018-2019		2019-2020	
	Expenses	Revenue	Expenses	Revenue	Expenses	Revenue	Expenses	Revenue	Expenses	Revenue
Entertainment	\$ 19,719.56		\$ 30,617.71		\$ 15,078.55		\$ 39,425.14		\$ 1,868.00	
Advertising	\$ 2,130.00		\$ 1,041.26		\$ 2,613.04		\$ 1,931.13		\$ 1,150.00	
Materials & Supply	\$ 7,526.73		\$ 6,138.51		\$ 5,312.45		\$ 7,929.13		\$ 4,305.40	
Children's Area	\$ 31,800.00		\$ 40,000.00		\$ 40,318.60		\$ 18,240.00		\$ 2,300.00	
Photo Contest	\$ 186.76		\$ 50.00		\$ 175.31		\$ 231.12		\$ -	
Promo Items	\$ 4,682.65		\$ 4,733.00		\$ 4,072.05		\$ 4,287.00		\$ 4,266.50	
BBQ Contest	\$ 2,130.61		\$ 2,181.57		\$ 2,348.53		\$ 2,186.11		\$ 2,266.50	
Personnel Costs	\$ 17,840.03		\$ 14,016.16		\$ 16,964.98		\$ 20,910.24		\$ -	
Travel	\$ 185.00		\$ 200.00		\$ -		\$ -		\$ -	
Children's Area		\$ 18,600.00		\$ 17,804.00		\$ 19,995.00		\$ 22,180.75		\$ -
Food Booth		\$ 3,120.00		\$ 3,520.00		\$ 2,260.00		\$ 2,540.00		\$ -
Craft Booth		\$ 4,300.00		\$ 6,280.00		\$ 2,080.00		\$ 4,320.00		\$ -
BBQ Cookoff		\$ 4,250.00		\$ 1,935.00		\$ 1,895.00		\$ 2,210.00		\$ -
Sale Items		\$ 1,480.00		\$ 1,465.00		\$ 1,115.00		\$ 1,375.00		\$ -
Donations		\$ 7,250.00		\$ 7,300.00		\$ 9,150.00		\$ 14,500.00		\$ 7,050.00
Photo Contest		\$ 177.00		\$ 177.00		\$ 432.00		\$ 100.00		\$ -
Misc		\$ 345.00		\$ -		\$ -		\$ 250.00		\$ 286.00
Grand Totals	\$ 86,201.34	\$ 39,522.00	\$ 98,978.21	\$ 38,481.00	\$ 86,883.51	\$ 36,927.00	\$ 95,139.87	\$ 47,475.75	\$ 16,156.40	\$ 7,336.00

CITY OF LIBERTY

City Council Agenda Item Form

Council Meeting Date: January 25, 2022

Agenda Wording: Second Reading - A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF LIBERTY, TEXAS, A HOME RULE MUNICIPALITY EXISTING UNDER THE LAWS OF THE STATE OF TEXAS; SAID RESOLUTION AUTHORIZING AN AWARD AND DISBURSEMENT OF LIBERTY COMMUNITY DEVELOPMENT CORPORATION FUNDS FOR AN ECONOMIC DEVELOPMENT GRANT TO SWAMPSMOKE, LLC.

Department: Community Development

Subject: City Council to consider a resolution ratifying an economic development agreement with SwampSmoke, LLC.

Background: On December 21, 2021, the LCDC Board of Directors held a public hearing and voted 6-0 to approve an economic development agreement with SwampSmoke, LLC. SwampSmoke, LLC owns the property at 2200 MLK. The owner plans to install a 2,400 square foot metal building and build it out as an entertainment and food venue. SwampSmoke, LLC plans to hire no less than four (4) employees, spend at least \$200,000 in hard and soft costs, pull all required permits, obtain a certificate of occupancy, and open and operate the business. In return, LCDC will reimburse \$25,000 toward construction and build-out costs once a certificate of occupancy is obtained and the business formally opens.

Funding Source: LCDC

Staff Recommendation: Approval of Resolution



The City of Liberty

City Council
1829 Sam Houston
Liberty, TX 77575

Meeting: 1/25/2022 6:00 PM

Department: Community Development
Category: Action Item

Resolution

Second Reading - A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF LIBERTY, TEXAS, A HOME RULE MUNICIPALITY EXISTING UNDER THE LAWS OF THE STATE OF TEXAS; SAID RESOLUTION AUTHORIZING AN AWARD AND DISBURSEMENT OF LIBERTY COMMUNITY DEVELOPMENT CORPORATION FUNDS FOR AN ECONOMIC DEVELOPMENT GRANT TO SWAMPSMOKE, LLC.

WHEREAS, The City Council of the City of Liberty, Texas has carefully reviewed the economic development request from SWAMPSMOKE, LLC (hereinafter referred to as the Grant Recipient); and

WHEREAS, the injection of economic development funds into the subject project is in compliance with the guidelines and regulations of the State of Texas as they relate to a 4B economic development corporation; and

WHEREAS, the attached Grant Agreement, by and between the Liberty Community Development Corporation (hereinafter referred to as the LCDC) and the Grant Recipient, shall control performance levels associated with this grant; and

WHEREAS, said Grant Agreement is hereby attached as Exhibit "A", incorporated into and made a permanent portion of this Resolution; and

WHEREAS, the LCDC Board of Directors has reviewed the subject grant request and has approved same; and

WHEREAS, the exact dollar amount of this grant award shall be TWENTY-FIVE THOUSAND Dollars and No Cents (\$25,000.00) with said amount being funded by the LCDC; and

WHEREAS, the Grant Recipient plans to construct and operate an entertainment and food venue that will be of significant economic consequence to the City of Liberty.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Liberty, Texas that:

- (1) This resolution has been read aloud two (2) times by the City of Liberty City Council.
- (2) The City of Liberty City Council hereby authorizes the LCDC to award an economic development grant in the amount of TWENTY-FIVE THOUSAND Dollars and No Cents (\$25,000.00) to the Grant Recipient pursuant to the attached Grant Agreement.
- (3) The Grant Agreement, herein attached as Exhibit "A", shall control performance levels associated with the subject grant.
- (4) The Executive Director of the LCDC shall secure the timely and appropriate execution of the Grant Agreement and shall deliver a fully executed original document to the City of Liberty's Chief Financial Officer.
- (5) A sixty (60) day waiting period for payments against this grant is hereby established with said waiting period to commence upon the date of the LCDC's first public hearing.

PASSED AND APPROVED this ____ day of _____, 2022.

Mayor
City of Liberty, Texas

ATTEST:

City Secretary
City of Liberty, Texas

CITY OF LIBERTY

City Council Agenda Item Form

Council Meeting Date: January 25, 2022

Agenda Wording: Executive Session

Department: Administration

Subject:

Background:

Funding Source:

Staff Recommendation:

CITY OF LIBERTY

City Council Agenda Item Form

Council Meeting Date: January 25, 2022

Agenda Wording: Reconvene into Regular Session

Department: Council and Board

Subject:

Background:

Funding Source:

Staff Recommendation: