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, March 8, 2022	6:00 PM	City Council Chambers

I. CALL TO ORDER

This meeting was called to order on March 8, 2022 in the City Council Chamber, 1829 Sam Houston Street, Liberty, Texas at 6:00 p.m. by Mayor Carl Pickett.

A.

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

No invocation was given.

III. PLEDGE OF ALLEGIANCE

The Pledge to the American Flag was led by Police Chief Gary Martin and the Pledge to the Texas Flag was led by Public Works Director Damon Jones.

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. Mr. Tommy Tousha & Ms. Marsha Wars from the VFW Post 5621 spoke regarding the VFW & Auxiliary Events happening in the area for the month of March and April.

V. PRESENTATIONS / REPORTS

A. March for Meals Month Proclamation

Mayor Pickett presented a Proclamation to Hannah Taylor, Executive Director of G.R.A.C.E. - Initiative of South Liberty County for March for Meals Month. Meals on Wheels America established the March for Meals campaign in March 2002, to recognize the historic month of March 1972, when President Nixon signed into law a measure that amended the Older Americans Act of 1965 and established a national nutrition program for seniors 60 years and older.

B. City Manager's Report - City Manager Tom Warner - Topics Include TML Region 16 Meeting, WWTP sludge removal, TDHCA Grant, Jubilee and Electrical Projects.

City Manager Tom Warner reported on the following updates:

- TML Region XVI meeting to be held in Port Arthur
- Wastewater Treatment Plant Sludge Removal
- CDBG Mitigation Grant Application for Fire Station #2
- Jubilee
- Electrical Projects

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

Assistant City Manager / CFO Naomi Herrington reported on the City's financials as of January 31, 2022.

D. 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. Mayor Pickett made note that the Code Enforcement Office has been busy.

E. Sam Rayburn Municipal Power Agency - Mayor Pickett

Mayor Pickett, President of the Sam Rayburn Municipal Power Agency, stated that the regular meetings are usually on the third Thursday of each month, but they held a special called meeting on March 1, 2022. With that being said, the next regular meeting will be held April 19, 2022 in Livingston. The meetings are open to the public.

F. Mayor, Council and Staff Comments

Mayor Pickett made note that a special Council Meeting is being scheduled for March 22, 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 Arnold. The motion passed 5 to 0 with all present voting yes and Council Members Thornton and Driggers being absent.

A. Minutes Approval

1. February 8, 2022

2. February 22, 2022

B. 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 THE REINSTATEMENT OF THE CITY'S INVESTMENT ACCOUNT WITH CETERA INVESTMENT SERVICES, LLC.

C. 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 THE FINAL PAYMENT OF THE WASTEWATER TREATMENT PLANT SLUDGE REMOVAL PROJECT.

VII. REGULAR AGENDA

A. Regular Session

1. 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 THE REQUEST FROM THE LIBERTY COUNTY CHAMBER OF COMMERCE TO ASSIST IN FUNDING THE INSTALLATION OF THREE (3) "WELCOME TO LIBERTY" SIGNS.

There are currently three (3) "Welcome to Liberty" signs located within the city limits on US 90, Highway 146 and FM 563. The signs have become dilapidated, and the Liberty County Chamber would like to have the signs replaced. Chamber staff have raised funds to redesign the signs and have solicited quotes to install the signs. They are requesting assistance from the city for the sign installation costs. The City will not be responsible for any future vegetative maintenance adjacent to the signs since they are located on private property. The installation cost for the three signs is $7,198.02 and payment will be paid to the Chamber once all the signs have been installed. Liberty County Chamber President Jennifer Chavira thanked the Council for their support in this project. A motion was made by Council Member Simonson to approve the resolution to assist the Liberty County Chamber in funding the installation of three (3) "Welcome to Liberty" Signs in the amount of $7,198.02. This motion was seconded by Council Member Beasley. The Motion passed 5 to 0 with all present voting yes and Council Members Thornton and Driggers being absent.

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 RKR RESTAURANTS, LLC.

This was the first reading of the resolution to ratify the economic development agreement between RKR Restaurants, LLC and Liberty Community Development Corporation. No action was taken.

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 RKR RESTAURANTS, LLC.

RKR Restaurants, LLC plans to build a fast-food restaurant at 1912 Highway 90 in Liberty, Texas. The developer plans to invest $1,000,000 in the building and $250,000 in furniture, fixtures and equipment. The developer plans to hire no less than thirty (30) employees (including full-time and part-time employees) over the course of the first two (2) years of this agreement. Additionally, the developer will be required to submit a landscaping plan and an exterior lighting plan with his construction documents and a fence or enclosure for his dumpster. All construction documents must be approved by the City of Liberty. In return, LCDC will provide reimbursements for geotechnical, survey, architectural and engineering (A&E) and construction costs. The total reimbursement for all items will not exceed $65,000 and no expenses will be reimbursed until after the developer receives a Certificate of Occupancy (CO) for the project. On February 15, 2022, the LCDC Board of Directors held a public hearing and voted 6-0 to approve an economic development agreement with RKR Restaurants, LLC. This is the second reading of the resolution to ratify the economic development agreement between RKR restaurants, LLC and Liberty Community Development Corporation. A motion was made by Council Member Smith to approve the resolution authorizing the award and disbursement of Liberty Community Development Corporation funds for an Economic Development Grant to RKR Restaurants, LLC for an amount not to exceed $65,000. The Motion was seconded by Council Member Beasley. The Motion passed 5 to 0 with all present voting yes and Council Members Thornton and Driggers being absent.

4. Public Hearing on the Condemnation of four (4) hazardous and unsafe structures to determine if the structure should be repaired or demolished.

1. 100 Carter
2. 604 Confederate
3. 1900 Kipling
4. 513 Palmer

At 6:50 p.m., Mayor Pickett opened the Public Hearing on the condemnation of four (hazardous and unsafe structures to determine if the structures should be repaired or demolished. The Code of Ordinances requires the City Council to hold a public hearing to determine if a structure complies with the City’s Hazardous Building Ordinance and, if not, to determine if the structure should be (1) repaired, (2) vacated and repaired or (3) demolished. The Code of Ordinances specifies that if a structure is fifty (50) percent damaged, decayed, or deteriorated, it shall be demolished or if the cost of repairs exceeds fifty (50) percent of the value of the structure, it shall be demolished. The public hearing will consider the following structures: 1. 100 Carter, 2. 604 Confederate, 3. 1900 Kipling, and 4. 513 Palmer. City Attorney Brandon Davis questioned Code Enforcement Officer, Daryl Marek, regarding the condition of each structure. It was asked if the structures met building code requirements and whether or not the property posed a safety and health hazard to the public. Mr. Marek answered that the structures do not meet building code requirements and that the property is a safety and health hazard to the public. The condition of each property was shown in photos attached to the agenda packet. 100 Carter and 604 Confederate properties did not have an owner in attendance to speak on the condition or the future intentions for the properties. Mr. Steve Dongo, owner of 1900 Kipling, and Ms. Shala Melonson, owner of 513 Palmer, requested extensions on the condemnation of each of their property. At 7:19 p.m., Mayor Pickett closed the Public Hearing.

5. City Council to consider and take possible action, declaring four (4) structures to be hazardous, a public nuisance and ordering the owners to demolish the structures. If the property owner fails to demolish the structure within the time period allowed, authorization is requested from City Council to have the structures demolished and a lien placed on the property for the cost of demolition, including administrative costs.

1. 100 Carter
2. 604 Confederate
3. 1900 Kipling
4. 513 Palmer

After closing the Public Hearing, Mayor Pickett asked for a motion on the condemnation of the four (4) structures being considered. Council Member Simonson made a motion that all four (4) structures were a public nuisance and demolished in thirty (30) days. The motion failed due to lack of a second on the motion. Council Member Arnold proposed the consideration of structures 1 & 2 in one motion and structures 3 & 4 in a second motion. The City Attorney, Brandon Davis, advised the Council that each structure could have its own motion.

Council Member Arnold made a motion that the structure located at 100 Carter is found to be a public nuisance and the owner needs to demolish the structure in 30 days or the City is authorized to secure the demolition. This motion was seconded by Council Member Beasley. The motion passed 5 to 0 with all present voting yes and Council Members Thornton and Driggers being absent.

Council Member Arnold made a motion that the structure located at 604 Confederate is found to be a public nuisance and the owner needs to demolish the structure in 30 days or the City is authorized to secure the demolition. This motion was seconded by Council Member Beasley. The motion passed 5 to 0 with all present voting yes and Council Members Thornton and Driggers being absent.

Council Member Arnold made a motion that the structure located at 1900 Kipling condemnation hearing be reset for the April 12, 2022 Council Meeting with the owner bringing in the plans for remodeling. This motion was seconded by Council Member Beasley. The motion passed 3 to 2 with Yes from Council Members Pickett, Beasley and Arnold, No from Council Members Smith and Simonson, and Council Members Thornton and Driggers being absent.

Council Member Arnold made a motion that the structure located at 513 Palmer condemnation hearing be reset for the April 12, 2022 Council Meeting with the owner bringing in the plans for remodeling. This motion was seconded by Council Member Beasley. The motion passed 4 to 1 with Yes from Council Members Pickett, Beasley, Arnold and Smith, No from Council Member Simonson, and Council Members Thornton and Driggers being absent.

6. **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, AWARDING THE BID FOR THE 2021-2022 STREET REHABILITATION**

PROGRAM TO VULCAN MATERIALS ASPHALT AND CONSTRUCTION, LLC.

On February 15, 2022, sealed competitive bids were received for the 2021-2022 Street Rehabilitation Program. The program consists of the rehabilitation of thirty- two streets located throughout the city. The streets included in the program were identified in the Fiscal Year 2021-2022 Capital Improvement Program approved by City Council, as a part of the annual budget. The two bids received were from Vulcan Materials Asphalt and Construction LLC and Texas Materials Group, dba Gulf Coast, a CRH Company in the amounts of $2,254,296.00; and $3,128,880.00, respectively. The engineer's estimate of probable cost was $2,312,105.00. A motion was made by Council Member Smith to approve the resolution awarding the bid for the 2021-2022 Street Rehabilitation program to Vulcan Materials Asphalt and Construction, LLC in the amount of $2,254,296.00. The motion was seconded by Council Member Arnold. The Motion passed 5 to 0 with all present voting yes and Council Members Thornton and Driggers being absent.

7. 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, AWARDING THE BID FOR HUMPHREYS CULTURAL CENTER RENOVATIONS TO BRAZOS COMMERCIAL ROOFING.

On February 10, 2022, three bids were received for renovations to the Humphreys Cultural Center. The scope of work for the renovations includes, in part, reroofing, installation of roof drains, installation of parapet flashing, wall flashing, skylight flashing, new skylights, installing exterior ladders, cleaning and sealing the exterior of the building, replacing flooring and repainting walls damaged by water intrusion. The three bids ranged in amounts from the apparent low bid of $1,153,300.79 to the apparent high bid of $2,300,800.50. The apparent low bid was submitted by Brazos Commercial Roofing. The engineer for the project, WJE, has reviewed the bids, contacted the apparent low bidder's references and is of the opinion that Brazos Commercial Roofing is capable of performing the work outlined in the construction plans and specifications. The engineers' estimate of probable cost is $1,500,000.00. The balance currently available in this fund is $1,118,130.63. In order to have sufficient funds to cover the cost of construction and have a small contingency, a transfer of $250,000 from the Cambridge Fund is recommended. A motion was made by Council Member Arnold to approve the resolution awarding the bid for the Humphreys Cultural Center Renovation to Brazos Commercial Roofing in the amount of $1,153,300.79 with the funding difference of $250,000 coming from Cambridge Fund. The motion was seconded by Council Member Beasley. The Motion passed 5 to 0 with all present voting yes and Council Members Thornton and Driggers being absent.

8. 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, AWARDING THE CONTRACT FOR PROFESSIONAL SERVICES TO CONDUCT A WILDLIFE HAZARD SITE VISIT AT THE LIBERTY MUNICIPAL AIRPORT TO MEAD & HUNT.

On January 3, 2022, the City of Liberty issued a request for proposals (RFP) for professional services to conduct a wildlife hazard site visit at the Liberty Municipal Airport. RFP responses were due on January 31, 2022 and four (4) firms responded. Based on the consultant rankings, the staff is recommending that Mead & Hunt be awarded the bid. The RFP specifies that any negotiated contract will cost $40,000 or less. A motion was made by Council Member Arnold to approve the resolution awarding the contract for Professional Services to conduct a wildlife hazard site visit at the Liberty Municipal Airport to Mead & Hunt for an amount not to exceed $40,000. This motion was seconded by Council Member Beasley. The Motion passed 5 to 0 with all present voting yes and Council Members Thornton and Driggers 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 CITY MANAGER TO NEGOTIATE PARTIAL PAYMENTS ON CERTAIN PAST DUE UTILITY ACCOUNTS.

During the collection of past due utility accounts, several customers inquired if they could pay less than the total amount due. Under the current procedures, there is not a method for the City to accept partial payments without bringing each request to City Council for approval. The proposed resolution will authorize the City Manager to accept partial payments on past due accounts with a balance due less than $1,000.00. Any partial payment for accounts with more than $1,000.00 due will still require City Council approval. This matter related to delinquent bills being collected by the firm Perdue, Brandon, Fielder, Collins & Mott, LLP. A motion was made by Council Member Simonson to approve the resolution authorizing the city manager to negotiate partial payments on certain past due utility accounts with a balance due less than $1,000. The motion was seconded by Council Member Arnold. The Motion passed 5 to 0 with all present voting yes and Council Members Thornton and Driggers being absent.

10. 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, AMENDING THE CHAPTER 380 AGREEMENT BETWEEN THE CITY OF LIBERTY AND MERRICK HOMES, APPROVING A REAL ESTATE LIEN AGREEMENT, AND APPROVING THE FILING OF A DEED OF TRUST ON THE HOLLY STREET MANOR SUBDIVISION.

In May 2019, City Council approved a 380 Agreement with Merrick Homes, LLC for the development of eight (8) residential lots on an approximate four acre tract located on Holly Street. Due to existing drainage issues and undersized waterlines on Holly Street, the City agreed to enlarge the drainage lines and increase the size of the waterlines from 2" to 6". The developer's obligation on the project was to pay for the upsizing of the drainage lines to a size necessary to adequately drain the subdivision. The cost to upsize the drainage lines was $55,0000. Merrick Homes would pay the City one-eighth (1/8) of the $55,000 when a building permit was issued for each home. The term of the 380 agreement was for five years. If all eight homes were not built within the term of the agreement, the unpaid amount would be due at the end of the five-year period. Default of the agreement by the developer would allow the City to foreclose on the property. Although a preliminary plat and final plat were approved by the City, Merrick Homes never submitted a final plat to the City for filing at the Courthouse and as a result, no homes could be built on the lots. In February 2022, Merrick Homes submitted a re-plat of the subdivision dividing the property into four one acre tracts. The re-plat was also approved by the Planning and Zoning Commission in February. To meet the terms of the original 380 Agreement, Merrick Homes has agreed to allow the City to place a lien on each of the lots in the amount of $13,750.00 for a total of $55,000.00. When each lot is sold, the City will be paid, by the title company, from the sale proceeds. This will allow the City to collect the $55,000 without having to foreclose on the property as outlined in the original Agreement. The 380 Agreement would be amended to allow the City to place a lien on the property and file a deed of trust instead of foreclosure as a result of default by the developer. A motion was made by Council Member Simonson to approve the resolution amending the Chapter 380 agreement between the City of Liberty and Merrick Homes, approving a real estate lien agreement, and approving the filing of a deed of trust on the Holly Street Manor Subdivision. The motion was seconded by Council Member Beasley. The Motion passed 5 to 0 with all present voting yes and Council Members Thornton and Driggers being absent.

B. Executive Session

At 7:52 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 §551.071 - Private Consultation with Attorney.

- To seek advice regarding contemplated /pending litigation.

C. Reconvene into Regular Session

AT 8:32 p.m., Mayor Pickett closed the Executive Session and reconvened the open meeting.

No action was taken on the Executive Session Items.

VIII. ADJOURNMENT

A. Motion To: Adjourn

With no further business to discuss, Mayor Pickett adjourned the meeting at 8:33 p.m.

____
Carl Pickett, Mayor

ATTEST:

____
April Gilliland, City Secretary