

**MINUTES
CITY OF ALVIN, TEXAS
216 W. SEALY STREET
CITY COUNCIL REGULAR MEETING
THURSDAY, APRIL 20, 2023
7:00 PM**

CALL TO ORDER

BE IT REMEMBERED that, on the above date, the City Council of the City of Alvin, Texas, met in Regular Session at 7:00 PM in the Council Chambers at City Hall, with the following members present: Mayor Paul A. Horn; Mayor Pro-Tem Gabe Adame; Councilmembers: Martin Vela, Keko Moore, Joel Castro, Richard Garivey, and Chris Vaughn.

Staff members present: Suzanne Hanneman, City Attorney; Dixie Roberts, Assistant City Manager/City Secretary; Michael Higgins, Director of Administrative Services; Dan Kelinske, Parks and Recreation Director; Michael Medwedeff, Assistant City Engineer; Brandon Moody, Director of Public Services and Robert E. Lee, Police Chief.

INVOCATION AND PLEDGE OF ALLEGIANCE

Loretta Smith with First Christian Church gave the invocation. Council member Moore led the Pledge of Allegiance to the American Flag. Council member Garivey led the Pledge to the Texas Flag.

PRESENTATION

National Crime Victims' Rights Week Proclamation - April 23-29, 2023.

Mayor Horn proclaimed the week of April 23-29, 2023 as National Crime Victims' Week and formally issued the proclamation to recipients in attendance.

Presentation/update from Precinct 1 Constable, David Thacker.

Presentation made by David Thacker regarding constable's officer coverage in Precinct 1.

PUBLIC COMMENT

Sam Bass presented comments on the sign ordinance's effect on local businesses.

CONSENT AGENDA

Consider approval of the March 7, 2023, City Council Workshop meeting minutes.

Consider approval of the March 16, 2023, City Council meeting minutes.

Consider authorizing the City Manager to send a letter to the Brazoria County Mosquito Control District for the continuation of aerial spraying services for the 2023 season.

This is an annual request for authorization from the Brazoria County Mosquito Control District for the continuance of aerial spraying over the City of Alvin. The spraying is performed during massive outbreaks of mosquitoes (typically in summer and fall months) by the contracted aerial sprayer. The County will put out notifications through their respective social media accounts and other means available. The flying schedule depends heavily upon the landing rate counts, weather and wind conditions. As a result of the variables listed, the County is unable to give notice of the specific flying time in advance.

Aerial spraying has proven to be an effective measure for mosquito control in Brazoria County. More information can be obtained by calling the Brazoria County Mosquito Control Office at 979-864-1532 or by visiting: <https://www.brazoriacountytx.gov/departments/mosquito-control/spray-request>. Residents can also submit spray requests by calling their office, or by visiting the website listed above.

Staff recommends approval.

Consider closing the Alvin Library (105 South Gordon St.) for Novemberfest and Home for the Holidays in perpetuity.

On February 2, 2023, the Alvin Public Library Board met for their regularly scheduled meeting. One of the items discussed was closing the Alvin Library for the community events of Novemberfest and Home for the Holidays. While this is usually proposed every year, this year the Board is proposing those closures on a permanent basis. This will allow for more flexibility with parking and reduce maintenance

of the restrooms, which both see an increase in traffic during said events.

Staff recommends approval.

Consider the purchase of a Case 580N 2WD Cab Tractor Loader from Associated Supply Co., Inc. (ASCO) in an amount not to exceed \$104,782.35 utilizing the Houston Galveston Area Council (H-GAC) Cooperative Purchasing Program.

Public Services utilize backhoes/loaders for excavations to replace, repair, or install watermain, sewer mains, storm sewers, and several other various tasks. The current backhoe (unit 619) was purchased and placed into service in 2002. Normal wear and tear has greatly reduced the effectiveness of the current backhoe. As a result, the maintenance cost and downtime for maintenance on this unit has increased. By replacing the current 21-year-old backhoe with a new modern machine, it will aid the Public Services staff with departmental needs to complete tasks within the City's infrastructure.

Staff demoed and requested proposals from three different manufacturers; Case, John Deere, and Mustang CAT. Case is a well-known brand with an excellent reputation and is the same manufacturer of our current unit. The machine has served the departments well, has been very dependable, and has shown to have an exceptional life-cycle. Case also has the lowest cost compared to the other manufacturers.

The replacement of the current backhoe was budgeted in the FY23 budget and staff recommends the purchase of the new Case 580N Backhoe.

Call a Public Hearing to receive comment regarding an ordinance establishing Standards of Care for Youth Recreation Programs conducted by the City of Alvin Parks and Recreation Department for elementary age children ages five (5) through – thirteen (13) for Thursday, May 18, 2023, at 7:00 p.m. in the City Council Chambers of Alvin City Hall, 216 West Sealy.

In response to community demand for after-school and summer day camp programs, the Parks and Recreation Department plans to offer these style camps. A day camp is considered extending 11.5 hours per day for approximately five (5) days per week. A participant (ages 5 to 13) can expect daily engagement from instructor lead learning, crafts, physical activity, as well as the inclusion of lunch and snacks.

Chapter 42 of the Texas Human Resources Code exempts certain after-school and summer recreation programs from state licensing requirements as identified in Subsection 42.041 (14), provided that the governing body of the municipality annually adopts standards of care by ordinance after a public hearing, and that such standards are provided to the parents of each program participant. The ordinance shall include minimum staffing ratios, qualifications, facility, health and safety standards and mechanisms for monitoring and enforcing the adopted local standards, as well as notify parents that the program is not licensed by the state and cannot be advertised as a child-care facility.

Before the adoption of this ordinance, a public hearing must be held before the governing body. The notice of said public hearing will be published in the Alvin Sun on April 30, 2023 and posted on the City's website. At the May 18 meeting, City Council will conduct the public hearing and consider the annual adoption of said ordinance.

Consider the appointment of Belt Harris Pechacek, LLP as the City's auditors for the Fiscal Year ending September 30, 2023; and authorize the City Manager to sign the Auditor's Engagement Letter.

Chapter 103 of the Texas Local Government Code requires cities to have its records and accounts audited, and an annual financial statement prepared based on the audit. Belt Harris Pechacek, LLP (BHP) has served as the City's independent auditors since FY09. BHP is proposing a base estimated fee of \$57,280 for the City's FY23 financial statement audit; with an additional single audit* one program base fee (if required) of \$4,491 for basic procedures and \$5,684 for each major program.

* A "single audit" is additional auditing procedures that are required if the City expends over \$750,000 of federal (grant) funds in a fiscal year. The City has met this threshold for FY22, so this single audit fee will be included for FY23. By engaging BHP for FY22, the City retains an audit firm that is extremely knowledgeable of the City's accounting and internal controls. BHP's Prior Fiscal Year Engagement Fees (FY22) Base audit fee: \$44,850 + \$8,725 for a single one program.

FY23 Base Audit Fees for Comparative Cities: Lake Jackson: \$61,000, Webster: \$51,948, Friendswood: \$60,402, La Porte: \$59,410, and Deer Park: \$64,500.

Staff recommends approval of the engagement of BHP to provide auditing services for FY23.

Consider Resolution 23-R-06, suspending the May 3, 2023 effective date of the proposal by CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas – Texas Coast Division, to Implement interim GRIP rate adjustments for gas utility investment in 2022, and requiring delivery of this Resolution to the Company and legal counsel.

The City is a **gas utility** customer of CenterPoint and a regulatory authority with an interest in the rates and charges of CenterPoint. The City is authorized to protect the interests of the City and CenterPoint customers residing in the City.

For cities in the Texas Coast Division – the Division in which the City of Alvin is, the Company is seeking recovery of \$86,398,965 in invested capital. The current filing will increase rates for residential customers by \$2.01 per month. This will increase the current residential customer charge from \$19.94 to \$21.95 per month. Increases are currently scheduled to go into effect on May 1, 2023.

The annual gas reliability infrastructure program ("GRIP") is designed for the utility to recover its incremental costs related to the capital investments it made during the previous year. The courts have ruled all that cities can do in a GRIP case is administratively determine whether the filing complies with the statutory explanation of how a GRIP filing is to be prepared. A city cannot challenge the reasonableness of any investment, or consider whether increasing revenues and declining expenses would offset the rate implication from increased capital investment. Cities also cannot recover any rate case expenses from the utility. The legislature and the courts have reasoned that GRIP rate increases are temporary rates and subject to refund when the Company files a traditional rate case after five years of rate increases.

Under the GRIP statute, cities may not challenge the Company's request, and may only act to suspend the effective date of the rate increase by 45 days. This Resolution suspends the effective date of the GRIP Rate Increases by 45 days, the maximum period allowed by §104.301(a) of the Texas Utilities Code.

Staff recommends approval of Resolution.

Consider Resolution 23-R-08, finding that CenterPoint Energy Houston Electric, LLC's Application for approval to amend its distribution cost recovery factor pursuant to 16 Texas Administrative Code §25.243 to increase distribution rates within the City should be denied; finding that the City's reasonable rate case expenses shall be reimbursed by the Company; finding that the meeting at which this Resolution is passed is open to the public as required by law; and requiring notice of this Resolution to the Company and legal counsel.

The City, along with approximately 40 other cities served by CenterPoint Energy Houston Electric, LLC ("CenterPoint" or "Company") is a member of the Gulf Coast Coalition of Cities ("GCCC"). The coalition has been in existence since the early 1990's. GCCC has been the primary public interest advocate before the Public Utility Commission, the Courts, and the Legislature on electric utility regulation matters for over 20 years.

On or about April 5, 2023, CenterPoint filed an Application for Approval to Amend its Distribution Cost Recovery Factor ("DCRF") Pursuant to 16 Texas Administrative Code § 25.243 to Increase Distribution Rates with each of the cities in their service area. In the filing, the Company asserts that it is seeking an increase in distribution revenues of \$84,571,868 for the period compared to the revenues approved in its most recent DCRF proceeding, Docket No. 53442.

GCCC has engaged the services of a consultant, Mr. Karl Nalepa, to review the Company's filing. GCCC's attorney recommends that all GCCC members adopt the Resolution denying the rate change. Once the Resolution is adopted, CenterPoint will have 30 days to appeal the decision to the Public Utility Commission where the appeal will be consolidated with CenterPoint's filing for the environs and those cities that have relinquished their original jurisdiction currently pending at the Commission.

Staff recommends approval of Resolution.

Consider Resolution 23-R-09, finding that Texas-New Mexico Power Company's application for approval to amend its distribution cost recovery factor to increase distribution rates within the City should be denied; authorizing participation with TNMP cities; authorizing the hiring of legal counsel and consulting services; finding that the City's reasonable rate case expenses shall be reimbursed by the Company; finding that the meeting at which this Resolution is passed is open to the public as required by law; and requiring notice of this Resolution to the Company and legal counsel.

The City is an electric utility customer and local regulator of Texas-New Mexico Power Company ("TNMP" or "Company"). The Cities served by TNMP ("TNMP Cities") is a coalition of similarly situated cities served by TNMP that have joined together to efficiently and cost effectively review and respond to electric issues affecting rates charged in TNMP's service area in matters before the Public Utility Commission ("PUC" or "Commission") and the courts.

On April 5, 2023, TNMP filed an application for approval to amend its Distribution Cost Recovery Factor ("DCRF") with the Commission in Docket No. 54807. In the filing, the Company sought to increase distribution revenues of \$14,800,834.

This Resolution authorizes the City to join with the other TNMP Cities to evaluate the filing, determine whether the filing complies with law, and if lawful, to determine what further strategy, including settlement, to pursue.

Cities Served by TNMP (TNMP Cities) intend to engage the services of a consultant, Mr. Karl Nalepa, to review the Company's filing. Mr. Nalepa will review the filing and identify adjustments that should be made to the Company's request. The coalition is recommending that cities retaining original jurisdiction deny the requested relief.

Staff recommends approval of Resolution.

Council member Adame moved to approve the consent agenda as presented. Seconded by Council member Castro; motion to approve carried with all members present voting Aye.

OTHER BUSINESS

Presentation of the Property Assessed Clean Energy ("PACE") Program.

PACE is an innovative way to finance energy efficiency, water efficiency, and renewable energy upgrades for commercial, industrial, and large multifamily (five or more units) real property. Property owners who participate in the program repay the financing through a voluntary contractual assessment placed on their property. One of the most notable characteristics of PACE programs is that the financing is attached to the property rather than belonging to an individual. Therefore, when the owner sells the property, the financing may be paid off during the sale, or stay with the property and be transferred to the new owner, who also benefits from the upgrades that were completed.

PACE financing enables businesses to avoid the upfront costs of energy and water efficiency improvements. PACE financing can be paid over a long period of time while energy costs are simultaneously lower, which typically provides the property owner with immediate net savings. PACE overcomes challenges that have hindered adoption of energy and water efficiency for many property owners. The debts, liabilities and obligations incurred as part of the PACE Program do not constitute debts, liabilities or obligations of City of Alvin.

ANALYSIS OF THE PACE PROGRAM:

Participation in this program is voluntary and offers property owners a cost-effective means of making energy and water efficiency improvements to their property. Property owners repay the financing over a period of years, reflecting the useful life of the improvements.

The benefits to the property owner include:

- *Helps Lower Electric, Gas and Water Utility Bills*
- *100% Financing on Hard and Soft Costs*
- *Typically, Results in Savings from Day One*
- *Increases Property Value*
- *Results in More Comfortable Buildings and Improved Indoor Air Quality*
- *Lowers Carbon Footprint and Improves the Environment*
- *Provides Long-Term Funding and Results in Immediate Benefit to Cash Flow*

The benefits to the City include:

- *Supports Commercial Businesses with No Cost, Liability, or Administration to the City*
- *Upgrades the Efficiency and Competitiveness of Existing Building Stock*
- *Helps Attain Energy and Water Efficiency Goals*
- *Increases Commercial Property Values and Improves Tax Base*
- *Creates Jobs for Local Contractors, Manufacturers and Engineering Firms*

Lee A. McCormick, program administrator, with Lone Star PACE was in attendance to make a presentation of the PACE program.

No action required.

Presentation by Belt Harris Pechacek, LLLP, of the City's Annual Comprehensive Financial Report (ACFR) as of September 30, 2022; and acknowledge receipt of the 2022 ACFR.

As required by state statute, an independent audit has been completed by the CPA firm of Belt Harris Pechacek, LLLP, for the fiscal year ending September 30, 2022. At the end of an audit, Generally Accepted Auditing Standards mandate that auditors must express an opinion on the financial records. For FY22, the City received an unmodified opinion from the auditors – which is the highest form of assurance that our financial statements “give a true and fair view” of the City’s financial position.

Pursuant to Section 103.003 of the Texas Local Government Code, the annual financial statements, including the auditor’s opinion must be filed with the City Secretary within 180 days after the last day of the fiscal year (September 30, 2022). The ACFR, which includes the auditor’s opinion, will be presented to the Mayor and City Council, and to the City Secretary for filing.

Michael Higgins, Director of Administrative Services, presented this item before City Council with explanation. Ben Cohen, from Belt Harris Pechacek, LLLP, presented the report. Hard copies were provided at the meeting.

Council member Adame moved to acknowledge receipt of the Fiscal Year 2022 Annual Comprehensive Financial Report. Seconded by Council member Castro; motion carried with all members present voting Aye.

Consider a variance request for the property owners at 1309 Highland Drive to encroach 22.1 feet into the 25-foot front building setback for the construction of a carport.

On March 7, 2023, the Engineering Department received a variance request from the property owners of 1309 Highland Drive, to be permitted to encroach 22.1 feet into the 25-foot front building setback for the construction of a carport. The homeowners are proposing to construct a carport along the front of their home located at 1309 Highland Drive, for reasons outlined in the attached request letter. The carport, as proposed in the attached property survey, will encroach 22.1 feet into the 25' front building setback, however it will still be approximately 23 feet from the nearest edge of Highland Drive.

The City Planning Commission unanimously approved the variance request at their meeting on March 21, 2023. Staff recommends approval.

Michael Medwedeff, Assistant City Engineer, presented this item before City Council with explanation.

Council member Adame moved to approve the variance request for the property owners at 1309 Highland Drive to encroach 22.1 feet into the 25-foot front building setback for the construction of a carport. Seconded by Council member Garivey; motion carried with all members present voting Aye.

Consider Ordinance 23-G, amending Chapter 17½, Signs, of the Code of Ordinances of the City of Alvin, Texas, for the purpose of amending the regulation of signs; providing for penalties; providing for severability; and setting forth other provisions related thereto.

At the February 16, 2023 Council meeting, City Council requested staff revise the Chapter 17 ½ - Temporary Sign Ordinance to allow businesses opportunities to utilize A-frame signs. Staff's recommendations are to allow A-frame signs with an annual \$50 permit with exceptions. Below is the list of staff's recommended revisions.

- *Added the definition of an A-frame sign to 17 ½ - 3. Sign Classifications. A-frame sign means a triangular, freestanding, movable, self-supporting temporary sign constructed of wood, plastic, or metal not permanently anchored to the ground with no more or less than two faces of equal lengths, each joined at their top along one straight line edge to form an apex and separated at the bottom allowing it to stand freely on the ground and to be repositioned by an individual without mechanical aid. This definition shall include, but is not limited to, signs commonly referred to as "sidewalk signs," "sandwich board signs," "A-board signs," and/or "curb signs."*
- *Added exception to 17 ½ - 5(26) Any sign erected by bona fide religious, institutional, fraternal or non-profit organizations provided that such signs are kept in good repair; do not project above the roofline or hang from awnings; are installed in a secure manner; do not obstruct the view of traffic; and are not located in a city/state right of way or easement. Added 17 ½ - 5(27) Any sign erected by the Alvin-Manvel Area Chamber of Commerce provided that such signs are kept in good repair; do not project above the roofline or hang from awnings; are installed in a secure manner; do not obstruct the view of traffic; and are not located in a city/state right of way or easement.*
- *Proposed A-frame sign exception can be found in 17 ½ - 5(28) - One (1) temporary on-premises A-frame sign may be allowed and displayed on private property owned by any individual or group provided that:*
 - (a) No such A-frame sign shall be erected unless a permit is first obtained from the Code Enforcement Officer;*
 - (b) A-frame sign shall be constructed of wood, plastic or metal with no more or less than two faces of equal lengths;*
 - (c) A-frame sign shall not exceed twelve (12) square feet and only one (1) A-frame sign may be displayed during business hours with each permit;*
 - (d) Each permit for such A-frame signs shall be issued for one year from the date the permit is acquired;*
 - (e) At no time shall an A-frame sign be permanently anchored to the ground, project above the roofline or hang from awnings of any building on the premises, in any right-of-way or easement, or obstruct the view of traffic;*
 - (f) All A-frame signs shall be kept in good repair (i.e., not tattered, faded, or unsightly); and*
 - (g) If any violations are found or exist, the Code Enforcement Officer has the authority to issue citations and/or discretion to remove the A-frame sign without further notice to the property owner. Any A-frame signs removed by the Code Enforcement Officer will be immediately disposed of.*
- *17 ½ - 58. Special Event Signs.*
 - *(a) – Added "Bona fide religious, institutional..." so it reads, "Bona fide religious, institutional or non-profit organizations' temporary signs on private or public property..."*
 - *(3) – Added "bona fide religious, institutional..." so it reads, "Banners may be used for bona fide religious, institutional or non-profit special events..."*
 - *(5) – Added "bona fide religious, institutional..." so it reads, "Banners used to advertise a special bona fide religious, institutional or non-profit event must..."*

If this ordinance is approved by City Council, the Chapter 28 – Comprehensive Fee Ordinance - Signs, would need to be revised to include the A-frame Annual Permit Fee of \$50 at a future meeting.

Brandon Moody, Director of Public Services, presented this item before City Council with explanation.

Council member Adame moved to approve Ordinance 23-G, amending Chapter 17½, Signs, of the Code of Ordinances of the City of Alvin, Texas, for the purpose of amending the regulation of signs; providing for penalties; providing for severability; and setting forth other provisions related thereto. Seconded by Council member Garivey; motion carried with all members present voting Aye.

Consider Resolution 23-R-07, amending the rules and regulations for the City of Alvin Oak Park Cemetery, and setting forth other provisions related thereto.

The rules and regulations of Oak Park Cemetery were last amended on April 21, 2016. Included in that amendment was the allowed use of shepherds' hooks on grave sites. The use of shepherd hooks allows for the hanging of plants (flowers) in an effort to keep visitors from placing such items directly on gravesites, which historically has negatively impacted the manicured mowing services of the cemetery. The use of shepherd hooks has proven to be a positive change and has been well received by patrons. However, staff feels that the rules for such use need to be narrowed down in an effort to maintain the aesthetics of the cemetery. A few pictures have been included to give insight into staff's recommended changes.

Current Rule:	Proposed Amendment:
Single or double shepherd hook per grave space allowed	Single shepherd's hook per grave space allowed
Height of a shepherd's hook not addressed	Shepherd's hook shall not exceed 5' in height
# of plants that may be hung from the shepherd's hook not addressed	One plant/flower arrangement may be displayed on a single shepherd's hook
Decoration of shepherd's hook not addressed	Shepherd's hook may not be decorated with artificial flowers or any other type of material/coverings
Decoration of plants/shrubs/trees near gravesites not addressed	Decorations attached to trees or shrubs are not permitted
Chimes or noise makers on gravesites not addressed	Chimes or any other noise-making device is not permitted

The materials used to decorate, including windchimes and the like, can become unraveled, creating unsightly litter and also have the ability to cause injury should a dismantled substance/part get projected through use of lawn maintenance equipment.

The City Secretary's Office schedules quarterly cemetery cleanups with the Parks Department in an effort to maintain an aesthetically pleasing and peaceful environment for all who visit.

Should City Council adopt this resolution amending the rules and regulations, staff will make contact with those who may be impacted by said amendments and will update the rules and regulations posted at the cemetery.

Staff recommends approval of Resolution 23-R-07.

Dixie Roberts, Assistant City Manager/ City Secretary, presented this item before City Council with explanation.

Council member Garivey moved to approve Resolution 22-R-07, amending the rules and regulations for the City of Alvin Oak Park Cemetery, and setting forth other provisions related thereto. Seconded by Council member Adame; motion carried with all members present voting Aye.

Consider appointment to the Senior Citizen Board to fill a vacancy for an unexpired term through December 31, 2023.

On March 17, 2023, Senior Citizens Board member Roger Stuksa passed away, leaving a vacancy on the board. Ordinance 06-XXX calls for 7 members to serve on the Board. City Council will only need to make one appointment to fill the current vacancy. The appointed member will fill the unexpired term left by Mr. Stuksa through December 31, 2023.

- *Current Applicants: Caiden Anderson, Thomas Hockin, and Michael Green. A detailed spreadsheet of applicant information is attached.*

Dixie Roberts, Assistant City Manager/City Secretary, presented this item before City Council with explanation.

Council member Garivey moved to appoint Thomas Hockin to fill the unexpired term on the Senior Citizens Board through December 31, 2023. Seconded by Council member Adame; motion carried with all members present voting Aye.

Consider, if any, requests from individual council members for an item or items to be placed on the upcoming agenda for the next regularly scheduled meeting.

Council member Castro requested a workshop session to explore increasing the Homestead Exemption.

REPORTS FROM THE CITY MANAGER

Items of Community Interest and review preliminary list of items for next Council meeting.

Dixie Roberts, Assistant City Manager/City Secretary, announced items of community interest; and she reviewed the preliminary list for the May 4, 2023, City Council Meeting.

ITEMS OF COMMUNITY INTEREST

Hear announcements concerning items of community interest from the Mayor, Council members, and City staff, for which no action will be discussed or taken.

Council member Garivey extended birthday wishes to his father.

EXECUTIVE SESSION

Mayor Horn called for executive session at 8:14 p.m. in accordance with the following:

Section 551.072 of the Local Government Code provides as follows: Deliberation regarding the purchase, exchange, lease, or value of real properties.

Section 551.071(1)(A) of the Local Government Code provides as follows: Consultation with City Attorney regarding pending or contemplated litigation or (B) settlement offer.

Section 551.074 of the Local Government Code: Deliberation on the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee.

RECONVENE TO OPEN SESSION

Mayor Horn reconvened the meeting to open session at 9:54 p.m.

Consider and take appropriate action, if any, regarding the employment contract of the City Attorney.

Council member Castro moved to approve City Attorney's contract as amended; Seconded by Council member Garivey; motion carried with all members present voting Aye.

ADJOURNMENT

Mayor Horn adjourned the meeting at 9:55 p.m.

PASSED and APPROVED the 4th of May, 2023.

ATTEST:

Paul A. Horn, Mayor

Dixie Roberts, City Secretary