

STATE OF TEXAS

COUNTY OF BRAZORIA

CITY OF LAKE JACKSON

BE IT KNOWN that the City Council of the City of Lake Jackson met on Monday, January 21, 2020 at 6:30 p.m. in Regular Session at 25 Oak Drive, Lake Jackson, Texas, in the Council Chambers at the Lake Jackson City Hall with the following in attendance:

Bob Sipple, Mayor
Jon J.B. Baker, Council member
Matt Broaddus, Council member
Gerald Roznovsky, Council member
Buster Buell, Council member

William P. Yenne, City Manager
Modesto Mundo, Asst. City Manager
Alice Rodgers, City Secretary
Sherri Russell, City Attorney
Eric Wilson, Public Works Director
Paul Kibodeaux, Police Chief
Sal Aguirre, Engineer
Athelstan Sanchez, Asst. City Engineer
Eddie Herrera, Engineering Tech
Sebrina England, Public Works Superintendent
Tina Doyle, Code Enforcement Officer
Debra Webb, Utilities Superintendent
Gaye Shockley, Garage Superintendent
Jeremy Bubnick, Parks & Rec Director

PLEDGE OF ALLEGIANCE

Council member Roznovsky led the pledge of allegiance.

INVOCATION

Council member Baker led the invocation.

VISITORS

There were no visitors to speak on a non-agenda item.

COMMENDATIONS

There were no commendations.

PRESENTATIONS

There were no presentations.

CONSENT AGENDA

- A. Approval of Minutes – January 6, 2020
- B. Boards and Commissions
- C. Approve the annual H-GAC dues in the amount of \$1,073.96

On motion by council member Buell second by council member Roznovsky with all members present voting “aye” the consent agenda was approved as follows:

- A. Approval of Minutes – January 6, 2020 - approved
- B. Boards and Commissions - accepted
- C. Approve the annual H-GAC dues in the amount of \$1,073.96 - approved

DISCUSS AND CONSIDER WAIVING CIVIC CENTER FEES FOR S.T.O.P ON MARCH 20, 2020 FOR A TEEN AND YOUTH SUICIDE PREVENTION CONCERT – BRENDA GEORGE

Brenda George was present to request the waiving of fees for Civic Center for the S.T.O.P. concert on March 20, 2020.

On motion by council member Roznovsky second by council member Baker with all members present voting “aye” approval was granted for the waiving of the Civic Center fees for S.T.O.P. to host a Teen and Youth Suicide Prevention concert on March 20,2020 in the amount of \$1,661

DISCUSS AND CONSIDER WAIVING CIVIC CENTER FEES FOR A CANDIDATE FORUM ON FEBRUARY 6 HOSTED BY THE FACTS

Yvonne Mintz with The Facts stated the newspaper has never hosted a candidate forum and this year she felt there are a lot of races in the county and this would be a good opportunity for the citizens.

On motion by council member Buell second by council member Baker with all members present voting “aye” approval was granted for the waiving of Civic Center fees for a candidate forum on February 4, 2020 to be hosted by The Facts.

DISCUSS AND CONSIDER REQUEST FROM HABITAT FOR HUMANITIES TO WAIVE THE PERMIT FEES FOR A BUILDING AT 70 FERN COURT

Wayne Mettetal, Habitat for Humanity was present to ask for the waiving the building permit fees to help keep the cost down for the building of this home.

On motion by council member Baker second by council member Roznovsky with all members present voting “aye” approvals was granted for the waiving of the permit fees for Habitat for Humanities for a build at 70 Fern Court.

REQUEST SUPPORT FROM CITY COUNCIL TO BE ALLOWED TO OPERATE BRAZORIA SOCIAL CLUB IN LAKE JACKSON – RYAN HUEY

Ryan Huey was here on behalf of 454 Plantation Drive. He recognized the club members that were present. He read a statement saying the Brazoria Social Club is a member only group that gets together in social fellowship to play poker, billiards, chess, dominos and other games. A few years ago, a group of them started going to the social clubs in Houston. He felt a better option would be to try to do something similar here in Lake Jackson, so they were not driving to Houston all the time. He said he researched and talked to several lawyers and eventually found a location that would work with him in his budget. He knew it would not be a very profitable venture, he was not looking to quit his job he was looking for a place to get together. Before he signed a 3-year lease he met with city inspectors to discuss the type of business and operation to make sure the city would allow them to get a certificate of occupancy. After getting the okay from the city, he set down with legal counsel one more time and the lawyer suggested he could reach out to a Lake Jackson Council member who was also a lawyer. The feedback he received from the Council member was he did not see an issue, but they needed to run a respectable place. After receiving the certificate of occupancy, he opened Brazoria Social Club in June of 2018. He pointed out they were operating exactly as they told the city inspectors they would. They did not try to come in under a false pretense and then try to do something different. The regular members consist of local retirees, many are veterans who moved over from a local VFW. The rest of the members are mainly professionals

and local business owners. We run a respectable place and there have been no issues. There have been several charitable events including working with the local Dominos pizza for their annual St. Jude poker tournament. The social club operated until recently when asked to stop by Chief Kibodeaux. And they immediately complied. He had met with Chief Kibodeaux several months prior as he requested information on the operation of the club. At that time, he did not ask us to stop the operation of the club because he said it was still unclear if the operations are legal or not. He said he appreciated Chief Kibodeaux.

Mr. Huey gave examples of golfers betting on their game, betting on a football game. Gambling is not a sin. He felt most Texans knew there was a gambling law, but don't know exactly what gambling is under the law. Some know the way to gamble legally in Texas but don't know the law only what they have heard.

Mr. Huey said the definition of gambling under Texas law Chapter 47.02 paragraph 3. Plays and bets for money or anything of value at any game with cards, dice, balls or any other gambling device. Bets and the value. The law also describes other types of betting like Super Bowl pots. Blackjack, slot machines, making a bet on poker, billiards, golf, bowling, etc. it is all gambling. There is no distinction between any of them under the law. It is all gambling under the law.

For legal gambling in Texas there must be three conditions met. The gambling place must be a private place, no one can receive economic benefit except for the gambling participants, except for skill or luck the chance of winning or losing is the same for all gambling participants.

The definition of a private place. In the law under Chapter 47.018 defines private place as a place to which the public does not have access. In his discussions with the Chief he felt like the lawmakers were talking about a place of residence. He felt everyone has the perception of a place of residence. He said if Texas lawmakers wanted it to be a private residence then they could have easily put private residence in the law, but they didn't, they clearly wanted it to be a broader definition.

He said law makers kept the broader definition of legal gambling. The Chief commented on public access. The law says the public does not have free access. The case he refers to discusses free access to gambling without any restrictions. We do not allow free access. Our access is restricted. We have memberships which require a valid id with a minimum of 21 years of age and we charge to get in. If we need to put in more restrictive access, we can.

He said State Representative Jeanie Morrison from Victoria requested the Attorney General's Office weigh in on private membership poker clubs in January of 2018. She asked the Attorney General "Are poker gambling enterprises that charge membership or other fees or receive other compensation from gamblers playing poker, but do not receive a rake permitted under the Texas law." The AG decided not to give an opinion and referred to the Courts as he felt that would be a better venue to make that decision. The takeaway was Representative Morrison did not question about whether they were private place or not, she questioned economic benefit. He felt that was where the confusion came from. He said just take the one sentence from the law and read it. He understands it is not clear.

He commented on the definition of economic benefit and quoted from the law "no person received any economic benefit other than personal winnings." You could say the club charges for membership and that is economic benefit therefore it is not legal.

He said Texas lawmakers could have made this very narrow definition, but they kept it a broad definition (speaking of legal gambling). He said in order to understand you can't just take one sentence out of the

law. In looking at the definitions that define what this definition means. In Section 47.01 it defines a bet as to win or lose something of value. So again, value comes from the bet. Section 47.019 defines a thing of value as any benefit. The economic benefit equals economic value and the value comes from the bet. All the winnings from the bet can only be received by the participant. If there are two or more people that agree to make a bet that becomes a prize pool. The prize pool has to be paid out only to those people that made that agreement. It says nonparticipants cannot win any bets or any portion thereof. That is where Representative Morrison talks about the rake, the rake is a percentage of the bet.

Illegal gambling is where non-participants do receive economic benefit from a bet such as a casino type establishment with blackjack, slot machines or games where there is a rake.

He said Texas lawmakers made illegal gambling where profit is directly tied to the amount of the bet. In a casino where a gambler bets more the casino stands to profit more. The social club charges a flat fee. The size of the bet is irrelevant. He said there will not be a high roller room at the Brazoria Social Club.

He addressed precedence. He said the case that Chief Kibodeaux referred to in their discussions was from 1995 about people in private residence using a modem to play card games. Why are there not more relevant or recent cases that we can use as precedence. After all the AG said that he would like to see this resolved in the courtroom.

Mr. Huey said for precedence there is a club in Austin that has been operating since 2015. The first Houston club opened in 2017. The world poker tour made its first stop ever in Texas in 2018. Actually, there is one case in Houston against the Prime Social Club where the Harris County DA ended up dropping all the charges and they are in operation today. There is the legal precedence.

Mr. Huey said he knows there are some who don't like a social club in Lake Jackson. He asked that the perceived vagueness of the law to pick and choose what type of legal gambling you will allow and will not allow in Lake Jackson. There is legal gambling going on in Lake Jackson and I imagine you are okay with it. He felt if Council saw what went on at the Brazoria Social Club, they would be comfortable with it and would not have a problem with it. He said the best place for it is in a private place where the police are welcome and can monitor operations to ensure everything is being done lawfully. He said he told Chief Kibodeaux he is welcome to come in. If he comes in in a public forum, he will have to sign up just like everybody else.

He said he wanted to find common ground with the city to figure out a way to do this. He offered two propositions 1)allow them to operate under probationary terms to be agreed on by the city and them for one and a half years to finish out the lease, at that time if the city then wants them to move outside the city limits they agree 2)he will give all club profits to charity and it would be the Brazoria County Dream Center.

Mr. Huey said if #1 was not an option then he is open to giving 100% of the club profits to Brazoria County Dream Center. This group has supported him, and he wants to do what he can to support them to keep this place open.

Council member Buell asked if they have been open since June of 2018 why this just now coming up.

Chief Kibodeaux stated he had received some complaints, the club shut down for a while, once they opened back up and he was able to contact Ryan Huey they started a conversation on gambling. He stated he discussed this with the city attorney and has discussed this with a couple of the assistant DA's and the DA herself and there are points of the law that that they have said they feel this is illegal. It is gambling

that is illegal for various reasons.

Chief Kibodeaux addressed Mr. Huey and said the cases that were dismissed by the Harris County DA were actually because a Consultant ADA that was on staff was actually working with both of those clubs for a fee to try to draft ordinances to actually collect fees and permits for the city of Houston so the DA turned the case over to the Feds because of his activity. Their own attorney commented that they could not make an ordinance that violated State law. Chief Kibodeaux stated his opinion is that so many aspects of what they are doing is illegal. We have talked about what to do to try to make it legal, but he just did not see how you get around keeping a gambling place. The definition of private place is still up in the air. He said he knows the DA's opinion and her staff and that is what he communicated to Mr. Huey.

Council member Baker asked what kind of complaints were received.

Chief Kibodeaux he received complaints through city hall that this might be illegal. He has communicated his concerns to Mr. Huey, and he has complied. There are opinions from one end of the spectrum to the other. These are not bad people; they are a great group of people and he knows several of them for a long time. It is just from the law enforcement standpoint, if it is illegal there is just no turning a blind eye. We treat everyone the same. He gave the best educated answer he had and communicated it to them, and they have complied. These types of businesses have popped up all over Texas for some time. If law enforcement and the District Attorney feel it is illegal, then going forward if we know there is illegal activity, we have no choice but to investigate.

Council member Broaddus asked Chief Kibodeaux why the police in other towns do not enforce this?

Chief Kibodeaux said Lake Jackson is not that big of a town and this has gone on for a while until someone said something. It has taken a year and a half to get to where we are today. This is just one establishment in a small town. Houston it is just lost in the weeds. Eventually they will get around to it. Tonight, we have discussed what the law means and most of these are defined further when you get into case law or the Attorney General's opinion. They just have not weighed in on it. They are leaving it to the district attorneys and law enforcement.

Mr. Huey asked why other cases have not been tried.

Sherri Russell stated there could have been other cases. What you are looking at are cases that have been appealed from the trial courts. Appellate cases are rare. That means you are challenging what happened at the trial court. We don't know based on the lack of appellate law how many cases actually get in front of a judge.

Mr. Huey asked if anyone knew any DA's that have tried a case in court?

Sherri Russell stated we don't get a list of what trial courts are doing.

Kurt Evans 1515 Moffitt, Clute stated he spoke to Jeri Yenne and told her they were looking for a place to play poker during the day with a bathroom and air conditioner with a button to be private. The door can be locked and if someone comes in a button is pushed to let them in. She said there are legal poker rooms and there are three things Texas says you have to do to be legal. We are doing that. They are just looking for a place to play poker and be upfront about it. They don't stay open after 11 pm and don't allow riff raff.

Mayor Sipple said this is not about this Council being against gambling. It is about this Council

upholding their duty and their oath of office and the law. The case here is whether or not this is legal.

Mr. Evans said he was told there are legal poker rooms. He was told the three things you have to do and that is what they are doing.

Ryan Huey said he has tried to call the DA's office who referred him to the civil department and then to Chief Kibodeaux. He stated the case the Chief referred to in Houston was dropped.

Sherri Russell stated that Mr. Huey should go to his State Representative to get the law changed.

Council member Baker asked Mr. Huey who was shutting him down, was it the County, the city, the DA or the Feds?

Mr. Huey said they only communication he has had is from Chief Kibodeaux.

Council member Baker asked Chief Kibodeaux to clarify.

Chief Kibodeaux said he received a complaint of illegal activity, verified through the prosecutor's office since he wasn't confident in his own opinion of whether or not what they were doing was illegal. If the DA's office tells him it is illegal, he is going to investigate something reported to him as an offense.

Jack Stewart 3900 Ranch House Loop, Angleton said his understanding is this is being challenged on a private establishment. Are we saying this is not a private club? He asked if the if private clubs are not allowed how is Brody's and Ricochet's operating.

Mr. Yenne stated those businesses were grandfathered in. Private clubs were removed from the zoning ordinance.

Mayor Sipple said Texas law specifically states that gambling or keeping a gambling place is illegal. The Texas Constitution prohibits most forms of gambling and the exceptions are private house, lottery, Indian casinos and dog and horse racing. They also consider a fee to get in as a rake.

Mr. Huey asked if the Council could help him set up a meeting with the DA's office.

Mayor Sipple stated that Mr. Huey needed to contact his State Representative or his State Senator to try to get the law changed.

Mr. Huey said he was trying to get support from the Council to talk to the lawyers. He said it feels like the lawyers don't want to talk about it.

Mayor Sipple said this needs to be handled at the State level.

Sherri Russell stated that this is not about a city ordinance this is about State law.

LJEMS – BI-MONTHLY REPORT – CHRIS SEMARINI

Chris Semarini presented the bi-monthly report for the LJEMS.

DISCUSS AND CONSIDER AN ORDINANCE CALLING A BOND ELECTION FOR MAY 2, 2020 FOR A) \$9,200,000 FOR THE EXPANSION OF CITY HALL, B)\$3,500,000 FOR THE CONSTRUCTION OF AN ANIMAL CONTROL FACILITY, AND/OR IMPROVEMENTS OR

REMODELING OF EXISTING ANIMAL CONTROL FACILITY; AND/OR PARTICIPATION IN FUNDING A REGIONAL OR JOINT ANIMAL CONTROL FACILITY C)\$2,300,000 FOR THE RENOVATION AND EXPANSION OF THE POLICE DEPARTMENT FACILITIES, D)\$300,000 FOR IMPROVEMENTS TO THE FLOORING AT THE LIBRARY, E)\$2,635,000 STREET AND DRAINAGE IMPROVEMENTS TO PIN OAK, NORTH SHADY OAKS AND FOREST OAKS LANE AND ADA RAMPS THROUGHOUT THE CITY, F)\$11,500,000 FOR STREET AND DRAINAGE IMPROVEMENTS TO MOSS, CHESTNUT, WISTERIA AND PALM LANE - FIRST READING

Dan Martinez, Winstead 601 Travis, Houston bond counsel was present to answer any questions. He stated this ordinance is based on the work of the Bond Task Force.

Stacy Suazo 56 Plantation Court stated she is in favor of Lake Jackson having its own animal control facility in a new building. The current building is in her opinion not repairable and was not constructed well. She recognized 20 members of the audience who were present to support the city in constructing a new facility and implementing life-saving practices. They want a life-saving facility that takes into account that animals lives do matter to the citizens of Lake Jackson. They would like to see continued conversations as you start flushing out what the facility is going to look like and how it will be managed.

Mr. Yenne stated that Ms. Suazo approached the city in 2016 to separate the SPCA from the city. That issue was not city generated it was the SPCA. The city was willing to offer up to 2.6 acres near the existing site to the SPCA to build their own facility. He stated the city will build an animal control facility that will house animals for 10 days and at the end of the 10 days those animals will be available for all rescue groups. There is a lot of misinformation out in the web and a lot of distortions and mistruths. The city has been in communication with the new SPCA board. We are going to have a team negotiating on behalf of the city which will be Mr. Mundo and Chief Kibodeaux. We will probably all go our separate ways. We all know what roles we do best. The city does animal control best. The rescue agencies, SPCA and the Humane Society all do rescue and finding forever homes for the animals better than the city does. To cast folks against one another is reprehensible.

Ms. Suazo stated their concern is if there is not a rescue group to take an animal in time.

Mr. Yenne stated that is something the group will work on and he hoped the rescue groups would take the animals.

Mayor Sipple stated the new board has created an atmosphere and a system that disburses the animals to other cities and other States that are capable of handling the what this facility is not.

Stacy Suazo stated they started the transport program in 2013.

Mr. Yenne said we are very pleased because the facility is below occupancy for the first time in years.

On motion by council member Buell second by council member Roznovsky with all members present voting "aye" an ordinance calling a bond election for May 2, 2020 for a) \$9,200,000 for the expansion of city hall, b)\$3,500,000 for the construction of an animal control facility, and/or improvements or remodeling of existing animal control facility; and/or participation in funding a regional or joint animal control facility c)\$2,300,000 for the renovation and expansion of the police department facilities, d)\$300,000 for improvements to the flooring at the library, e)\$2,635,000 street and drainage improvements to Pin Oak, North Shady Oaks and Forest Oaks Lane and ADA ramps throughout the city, f)\$11,500,000 for street and drainage improvements to Moss, Chestnut, Wisteria and Palm Lane

was passed on first reading.

Lauren LaCompe 2000 Brazosport stated she also works in animal rescue and fostering for SPCA. Which means she is fostering for the animals of Lake Jackson. She said regarding this specific item the city is about to write a blank check of \$3,500,000 and asking citizens to support a vague bond. She asked if it would be clarified prior to the election.

Mr. Yenne stated it is quite specific, the bond task force worked for months. They wanted to keep their options open and be as transparent as possible. We have 3 other entities we are dealing with. Clute and Freeport have no facilities whatsoever. They need to be able to have a place to take their animals. We have talked to them about having another joint facility. We do want to look at the ability to remodel the existing facility and gut it and see what can happen. Odds are we will build a new facility. We wanted to tell the public these are the three options. Under the new State law, you have to provide all the options you may consider. We are not going to sit here and say we are going to build a new facility and then come back and say we are going a different direction. We are telling people exactly the three options we are considering and one of those options will be done.

Mr. Mundo stated that the bond task force did look at a brand-new facility that was \$6,500,000 option and it was decided that was not affordable. They looked at ways to reduce the budget. We had to explore other options and give ourselves leverage room. If we had proposed the \$6,500,000 then we could say we are building a new facility. Once we had to make amendments to lower the bond, we had to open our options.

Ms. LaCompe asked why the construction of an animal facility was left on if the city knew that the \$3,500,000 would not be enough to build a facility.

Mr. Mundo stated we are reducing the plan modeled after another county. But that facility was built in an area where costs may be lower and so we still felt we needed wiggle room in case we could not build the facility at that price. We had to explore other options.

Mr. Yenne said one of the options considered was if we kept it at \$6,500,000 the other cities could buy in with a \$2,000,000 pod of their own. The thought was if we cannot pull off the \$3,500,000 then let's consider taking the existing structure and using it for offices and storage and then build a pod next to it. The pods came in at just over \$2,000,000. We are also exploring working with other governmental entities in the county, the SPCA suggested we continue to do that. This may be our "pay in" or capital for a larger facility somewhere else.

Ms. LaCompe asked if it would be a cooperative effort with other cities.

Mr. Yenne said yes.

Ms. LaCompe asked if the wording would be specific before the voting?

Mr. Yenne said we are telling the voters it will be either a, b or c. It will not be worked out in time to be more specific.

Ms. LaCompe asked when the contract expires with the SPCA?

Mr. Yenne stated in 2023 and that is why we need to get moving. The SPCA came in in 2016 and told us they were going to separate from the agreement and build their own facility. We had anticipated

they would have their facility funded by now and under construction.

Ms. LaCompe said they would still be operating out of an insufficient facility.

Mr. Yenne asked if they built their new one?

Ms. LaCompe said it would not be finished. The city has been behind the ball on this from the beginning and I understand you want to get ahead of it. There is a difference of getting ahead of it and getting a check to possibly get ahead of it or just catch up. That is what is important to know, if we are working on the existing facility that is insufficient...

Mr. Yenne said it was only insufficient for the way it was used

Ms. LaCompe said that was incorrect.

Mr. Yenne said it was only intended to be a 10-day facility only for the 3 entities. SPCA had a facility in Angleton and all the animals after 10 days were going to go there. That is the way the contract reads. When the Angleton facility was closed the SPCA moved in lock, stock and barrel into the existing facility which was only designed to carry 150 animals at any given time. Now the numbers had gotten up to over 500 in that facility. The animals were stored in every nook and cranny. The SPCA has done a remarkable job of fostering the animals out and finding places for them to go. But in the meantime, it drove the facility into the ground because we simply could not maintain it. It was not made to handle that many animals. We have got to get it back to the original. We have got to get back under the original contract.

Ms. LaCompe said we are currently under the original contract; it doesn't expire until 2023

Mr. Yenne said we are under the contract, but all the animals after 10 days belong to the SPCA. Not to the shelter and not to the cities. The intention was for them to be at their facility and when their facility closed, they were all being housed at the existing facility which was not designed for that.

Ms. LaCompe said she was working at the facility after hurricane Harvey when the animals were taken to that facility in the excess of 150. It was never meant to do it, but it does have to serve the purpose of the needs of the cities. Freeport, Clute and Lake Jackson she felt that on any given day those three cities along would have over 150 animals. It is an insufficient facility regardless of how it is run. It is not just about how long the animals are staying there. It is an insufficient facility and so remodeling a facility that is insufficient for the amount of animals that we have been taken into it is not an acceptable path forward for communities of this size.

Mr. Yenne said it has everything to do with the fact that we are not bringing in 150 animals a day. The animals that are staying there are taking up the space. If they were going to the other facility (SPCA Angleton) that at the time we entered the contract, we would not be having this discussion and we would be operating under the contract we have always had. But when everything got moved to the facility and animals don't move out of the facility it begins to pile up. The SPCA had done a remarkable job of getting animals out into foster, out into forever homes and out into other communities and States that don't have the issue that we have in Texas. That has been wonderful. The current group that is running the facility has gotten the number down below 150 for the first time in a decade. He said he is awed by the work they are doing over there. They are a very positive group making progress and we want to work with them on whatever we build. Whether it is going to be a joint facility with everybody again, we remodel the existing one or we build a new one. A new one

would be a smaller one just for Lake Jackson. The \$3,500,000 would be just for Lake Jackson the other entities would have to come up with their own monies.

Ms. LaCompe said he answered her question of whether or not there was going to be a plan in place before the residents were asked to vote on the money.

Timothy Hill 520 Lotus asked about the street drainage and improvements and why is the city not considering doing the drainage on Lotus.

Mr. Yenne stated that Lotus is being worked on now.

Mr. Hill stated not his block. His backyard is under water after it rains, and he needs to get something done about it. There is no drainage system in his backyard.

Mr. Yenne asked Sabrina England to speak with Mr. Hill separately.

Emily Wise 305 Juniper asked if the contracts end in 2023 and there is not renegotiation to work with the SPCA will the 10-day hold go back into effect and will the animals be euthanized.

Mr. Yenne stated the city would revert back to the way it operated 20 years ago. The city had a lower euthanization rate back then than the SPCA did. It is the sheer volume of animals; it is beyond spay and neuter. The point is we will be negotiating to see what kind of revisions can be made to the current contract and where we would go moving forward. We don't want to lose the relationship with the SPCA because they have been doing an excellent job of finding homes for the animals.

Ms. Wise asked if it would go back to a 10 day hold and then the animal would be euthanized

Mr. Yenne stated we would hope not because we want them to be picked up. Right now, under the contract after 10 days all animals belong to the SPCA. He said he did not know if that would continue or what the relationship would be. All the other facilities we have gone and looked at; they have been able to work with all the rescue organizations to take the animals so the euthanization rate is very low. That is what we all want to do, we all want to find the animals places to go. You are asking me a hypothetical question of the future. Right now, we are trying to avoid that by working on a relationship together. The current board is very positive, and we are looking forward to working with them.

Ms. Wise said the budget as it is written is written in a hypothetical way in it could be this or that. You are asking people to vote on this and give their hard-earned money. What she wants to know as someone who helps to pay those taxes if she votes for a \$3,500,000 facility will it euthanize the animals after 10 days if they are not pulled.

Mr. Yenne said yes if no one comes and rescues the animal and there is no place in the shelter, then the answer would be yes.

Raymond Bennett 238 Palm Lane asked if the city supports the catch neuter and release program.

Mr. Yenne stated that the SPCA will be presenting a program to the cities in the 2-3 months. At that time, we will see where the city council goes on it. It will be a specific item on the agenda. The last thing we want to do is put an animal down. We will do our best to find the animal a home.

Council member Roznovsky stated the catch neuter and release program will take the community backing it. We need to find a neighborhood or area such as downtown to implement it and see if it will work.

Ashley Malone 5848 Brazos River Road said with the TNR program stated she just relocated from Houston and they are doing training on TNR. Some are doing TNR on their own and have been doing some fundraising. They were told you could not do that in Lake Jackson and Freeport because they are a bird sanctuary and there is an ordinance. She said would have to present an ordinance to the council to do the TNR. She asked if council wanted 100 cats to reproduce into a 1000 cats to eat the birds. She asked if there is an ordinance that this is a bird sanctuary and you cannot do TNR.

Mr. Yenne stated there is an ordinance that the city is a bird sanctuary, but we do not have an ordinance that you cannot do TNR. You will have an argument with the birders as they came out the last time this was discussed. It is an educational thing to work together. He stated all the city's ordinances were online.

Ms. Malone said the TNR program is very hopeful for her as she has been identified as the cat lady. She asked if the \$3,500,000 would be a Lake Jackson only facility and if Clute or Richwood wanted to join in, they would throw in money. It won't be we will do the \$3.5 million and every time you bring a cat in, we will charge you \$50 dollars to take the cat in. They won't be able to bring their animals in if they don't buy into the facility.

Mr. Yenne stated that is correct. In the beginning the other cities put in monies for the current facility, Lake Jackson put in \$550,000 plus the land and plus the architect. It would be the same thing. There are negotiations going on now. We could take some or all of the \$3.5 million and meld it into another joint facility. We did not want to close any door, we wanted to keep our options open. Whether it is a facility just for us, whether we remodeled or kept the facility, we wanted to keep our options open in case we could bring it all back together again. The intent was to have these facilities all over the county with the SPCA being the one organization because they are the one that asked to be the operator of the facility. That would be great because if you lost your animal here and it somehow made it up to Pearland you could get in the data base and find it.

Ms. Malone said ideally you were saying \$6.5 million but you could raise the money, so you are proposing \$3.5 million and these other groups come in give another \$1 million or \$1.5 million and you go to your \$6.5 million.

Mr. Yenne stated if the SPCA would build theirs as well it would be perfect. Then we would have the one facility that would hold the animals for 10 days and then they would be moved over to the SPCA. Their program benefits the animals the most to get them out of cages and into homes. When you put an animal in a cage and leave it there, the behavioral problems they have become permanent.

Ms. Malone asked if the city had ever considered having a spay neuter facility.

Mr. Yenne stated the reason the SPCA closed the facility in Angleton was to open the spay neuter facility in Freeport.

Ms. Malone asked if the \$3.5 facility animal shelter would have anything to do with medical, spay or neuter?

Mr. Yenne said we would have to work that out. We control the animals for animal control for the

safety of the public and the safety of the other critters. The point is if they get lost, the first thing we try to do is get them back to their home and back to their owners as quickly as possible. The others that we can't we try to find a place for them to stay.

Melissa Regis 426 Oleander asked if the animal control facility the city is building for up to 150 animals

Mr. Mundo stated those numbers are just for Lake Jackson. That does not include Clute or Freeport.

Ms. Regis asked if the plan was to vaccinate the animals on intake?

Mr. Yenne said the operations would have to be determined later. We are just trying to get the facility done.

Ms. Regis stated those questions are important, because 150 unvaccinated animals together for 10 days is a plague waiting to happen.

Mr. Yenne stated that city's goal is to get the animals out of the facility as quickly as possible. If your dog gets loose and has a tag on it, we take it to your home and not the shelter.

Ms. Regis said that is good, but she is thinking about the strays or the puppies. If an animal is sick or injured when it comes to the impound what are the city's plans for that animal? Will they take it to a vet? Or are they going to euthanize it on site?

Mr. Yenne said again that is means and method...

Ms. Regis said so you don't know

Mr. Yenne said the way we use to do it was if the animal was not very sick, but it needed some help we took it to a vet. If it was gravely ill or badly injured the odds are that we would put it down, back then because we did not have the ability to take care of them. That is why it is important to maintain the relationships. If we know of a group that specializes and takes care of the animals that are sick or injured, we would just pick up the phone and call to see if they can come get the animal because we don't have a facility to take care of it. There are all sorts of options

Council member Roznovsky said his hopes are this will not be just a place where animal control will take an animal and drop it off. He hoped we would have somebody that their role is to manage that facility. So, if we have a situation that an animal is injured, we reach out to these organizations to see if they can come take the animal or find a way to help the animal. We all want to get to the same place.

Ms. Regis said it is a matter of trust. Who is going to run this facility?

Council member Roznovsky said the city will run the facility, it is a city facility.

Ms. Regis traditionally animal impounds have been run by animal control.

Council member Roznovsky said we can put oversight in place. If the community wants a higher level of standard, we need to hear that. This is a community issue. If we cannot get community backing, then we cannot make it happen.

Ms. Regis said she does not have anything against animal control. Traditionally animal impounds have to be open to the public, they don't have volunteers because they are an entity of the police department.

Council member Roznovsky said it is a trust issue

Ms. Regis said that is one of the issues with the bond issue is that there is not enough information.

Council member Roznovsky said the facility we have today, we will be lucky if it makes it to 2023. We have to do something and that is why we have left the table open for options. We are still talking and having discussions to try to find what is the best solution for the community. The community also includes the animals. To be successful we have to educate the community and it is easy for people to get upset because we are not doing what you want us to do. We need to get upset with the pet owners that aren't good pet owners. Those are the people that are creating the problem. We are all trying to resolve the problem. Unless we educate people to stop getting pets because they think their kid will like it and two weeks later, they don't like it, or they get a sheep dog and find out a sheep dog doesn't do well here. We need to educate on spay and neuter. Waco put in a mandatory spay and neuter and they did it over a period of years. It takes a community to do it.

Ms. Regis said she would suggest if the city is thinking of remodeling the shelter, they need to go turn over a box and see how many mice run out. That shelter is in bad condition. Do you want the new shelter infested with mice?

Mr. Yenne said that is the point, we would not leave it the same we would gut it. We are just trying to keep our options open.

Council member Roznovsky said that is the last option because what do you do in the interim. There is no easy solution. We have a bond that will head us into some direction that gives us some options.

Mary Kate Bennett 238 Palm Lane she said it would be helpful if we had a group program set up for TNR. Treasure Chest, The Box and Smithharts has 5 cats downtown that they have trapped neutered and released. They have their ears notched. They want to make sure their work does not go away and that those cats are not picked up. She asked if Council could assure her of this?

Mr. Yenne suggested she talk with the Police Chief and we can work with that.

Ms. Bennett said they want to expand that downtown and it is working.

Council member Roznovsky said that is a prime example, you are doing the right thing and have made us aware of it, so their animals don't get picked up. We also know if an animal is diseased and it is one of your animals, we can come to you and let you know.

Ms. Bennett said they are also getting the animals shots.

Council member Roznovsky said if you are agreeing to do this program you are agreeing to a house cat that is not in the house. You are going to take care of it, you are going to worm it and be sure it is chipped. He said we don't have to change any ordinance to allow it.

Ms. Bennett said someone had told them that the city was going to come pick the cats up.

Chief Kibodeaux said he hopes it works.

Mr. Yenne suggested someone reach out to the birding community.

Stacy Suazo said there would be a whole lot more trust from the community if members of the city would stop saying the SPCA did not have permission to go no kill.

Mr. Yenne said they did not have permission.

Ms. Suazo said you are basically saying they did not have permission to have rescue partnerships, volunteers, foster care, you don't know what no kill means, and you are throwing those words around. She said she knows the city is not against no kill but when you say that the SPCA did not have permission to be no kill you are causing the community to not trust you because they believe that you don't believe in the no kill practices. That is where the foundation of the trust issue comes from. That is the very basis of it, members of the city saying the SPCA did not have permission to be no kill therefore we don't believe in no kill or that is what it sounds like. We don't believe in no kill we believe animals should be killed after 10 days; I know that is not what you are saying but that is what it sounds like.

Mr. Yenne asked where in the minutes is the request made to the Shelter Board to make the facility a no kill shelter.

Ms. Suazo said it is like saying we are a safe place for pets, it is a slogan, it is words.

Mr. Yenne said this is a joint 4 group facility. It would have been courteous to ask the other three members, Clute, Freeport and Lake Jackson, if you are on with this idea to educate them with this idea. Then it is not just the board voting on it, they have to come back to the organizations, Lake Jackson City Council, Clute City Council, Freeport City Council to get that permission. It is not the SPCA board that controls it. It is all 4 organizations that control the facility.

Ms. Suazo said that is not correct under the contract.

Mr. Yenne said that is the way the contract is written. You have to come back to each of the entities. These two (Mayor Sipple and Council member Buell) are the representatives for Lake Jackson, they don't do anything with the board without getting permission from this body to make a move that will either cost money or change an ordinance. That is where this comes from.

Ms. Suazo said the no kill words were not used at a board meeting, but the no kill concepts were all discussed and never at anytime did someone on the board say you have to stop doing this. She said she was paid by the Shelter Board and not the SPCA.

Mr. Yenne said that should have never happened.

Ms. Suazo said she was the employee of the Shelter Board

Mr. Yenne said the Shelter Board can not have an employee. That is the problem and that is how the contract got completely warped out

Ms. Suazo stated that all the Shelter employees are employed by the Southern Brazoria County

Animal Shelter.

Mr. Yenne said that was wrong. We contract with the SPCA. The employees are all supposed to be employees of the SPCA and not the Southern Brazoria County Animal Shelter.

Ms. Suazo suggested he check their paychecks stubs and where the money was coming from.

Mr. Yenne stated that is why it was incorrectly managed. That was not the way it was supposed to be. The contract said it was supposed to be the SPCA. The four members contract with the SPCA to run the Shelter. Not the SPCA board. He said when he attended a meeting with Mayor Rinehart, they started discussing personnel issues he asked what they were doing. The contract is with the SPCA to provide the employees and all the other benefits. All the group is supposed to do is authorize the funding and not get into personnel issues or hire an individual.

Ms. Suazo said however that got screwed up was before her. The whole time she was there she was working for and paid primarily by the Southern Brazoria County Animal Shelter. Later in her tenure the SPCA took over her pay and paid the payroll. She supposed she was no longer working for the Southern Brazoria County Shelter, but her paycheck still said Southern Brazoria County Animal Shelter on it.

Mr. Yenne said somewhere along the line it should never have happened.

Ms. Suazo said it was her belief she was responsible and answerable to the Southern Brazoria County Animal Shelter. Everything she did she did under their jurisdiction and with their consent.

Ms. Suazo said the citizens would trust the city a lot more to build a building and manage a building and operate a building if they would stop saying the SPCA did not have permission to be no kill.

Mr. Yenne said they did not have permission.

AUTHORIZE THE CITY MANAGER TO EXECUTE CONTRACT WITH TRANSCEND, INC. D/B/A SPA SKATEPARKS FOR THE CONSTRUCTION OF THE NEW SKATEPARK AT MACLEAN PARK IN THE AMOUNT NOT TO EXCEED \$550,000.

Jeremy Bubnick stated this proposal is for the Construction of the new poured-in-place (8,800sq/ft) skatepark at MacLean Park. The project is through the TIPS Interlocal Purchasing System, Contract #17021.

The total cost of the project is \$550,000; staff has budgeted a 10% contingency for a total of \$605,000. The funds have been approved to be split over two fiscal years (2019/2020 & 2020/2021). Construction will begin late August and will be completed by December (weather permitting). Construction is estimated to take between 12-14 weeks. We are finalizing the contract now to get on the contractor's 2020 projects calendar and to lock in the \$550,000 price.

Jacqueline Miller 53 White Oak Court asked if the drainage at the skatepark would be tied into the dog park.

Jeremy Bubnick stated this should not affect the drainage at the dog park.

On motion by council member Buell second by council member Broaddus with all members present voting "aye" authorization was given the City Manager to execute a contract with Transcend, Inc.

D/B/A SPA Skateparks for the construction of the new skate park at MacLean Park in the amount not to exceed \$550,000.

APPROVE CONTRACT WITH BRAZORIA COUNTY FOR THE MAY 2, 2020 GENERAL ELECTION

On motion by council member Roznovsky second by council member Buell with all members present voting “aye” approval was granted for a contract with Brazoria County for the May 2, 2020 General Election.

DISCUSS AND CONSIDER AN ORDINANCE CALLING THE MAY 2, 2020 GENERAL ELECTION – FIRST READING

On motion by council member Broaddus second by council member Baker with all members present voting “aye” an ordinance calling the May 2, 2020 general election was passed on first reading.

DISCUSS AND CONSIDER AN ORDINANCE CALLING A CHARTER ELECTION FOR MAY 2, 2020 – FIRST READING

On motion by council member Baker second by council member Buell with all members present voting “aye” an ordinance calling a Charter Election for May 2, 2020 was passed on first reading.

AUTHORIZE CITY MANAGER TO EXECUTE CONTRACT WITH IAD TO DESIGN SPECIFICATIONS FOR CANOPY REMOVAL AND STORE FRONT IMPROVEMENTS ON NORTH PARKING PLACE IN AN AMOUNT NOT TO EXCEED \$31,000

Staff recommends hiring architect, iAD, to prepare plans for the removal of the canopy on North Parking Place, and repair of the business facades after the canopy is removed. The \$31,000 budget would consist of \$25,000 for design, \$1,000 for reimbursables (printing & copies), and \$5,000 for construction administration.

On September 17, 2019 part of the canopy (over public right of way) in front of Zumgasthaus began to fall after a heavy rainstorm. The City secured the area and removed the damaged portion on October 1st. The cost to remove the damaged portion and weatherproof the building was \$14,087. There is a possibility that we can seek additional funding from our Community Development Block Grant to go towards façade improvements for the businesses.

Discussion followed on whether or not some monies can be recovered from the property owners for the city removing a dangerous canopy.

On motion by council member Broaddus second by council member Roznovsky with 4 members present voting “aye” and Mayor Sipple voting “nay” authorization was given to the city manager to execute a contract with IAD to design specifications for canopy removal and store front improvements on North Parking Place in an amount not to exceed \$31,000.

APPROVE PURCHASE OF A 2020 CNG AUTOCAR ACX64 WITH 33-YARD COMMERCIAL SIDE LOAD REFUSE BODY. PURCHASE FROM CHASTANG ENTERPRISES, INC. THROUGH BUYBOARD CONTRACT #609-19, IN AN AMOUNT NOT TO EXCEED \$283,948.00

The FY 2019-2020 budget included \$325,000.00 for equipment replacement. It is staff’s recommendation to replace unit 793 (2004 Mack CNG Commercial). Total expenditure for this replacement truck is \$283,948.00

On motion by council member Roznovsky second by council member Buell with all members present voting “aye” approval was granted for the purchase of a 2020 CNG Autocar ACX64 with 33-yard

commercial side load refuse body from Chastang Enterprises, Inc through the Buyboard contract #609-19, in an amount not to exceed \$283,948.00

AWARD BID FOR MAGNOLIA DITCH LINING TO HTI CONSTRUCTION IN AN AMOUNT NOT TO EXCEED \$131,340.00

Bids were opened on January 15, 2020 with a competitive turnout of various local and outside contractors. Staff is pleased to have gotten a bid within the budget estimate amount. There were a closely grouped proposals made indicating a valid bid result.

The base low bidder HTI Construction has had previous job experience in the city with recent projects of water line installation and ditch concrete lining spillway / curbing construction. HTI Construction has performed this work satisfactorily and completed the work without additional work markup. They are staffed by competent superintendents that have had previous engagements in the miscellaneous street and drainage projects.

Staff recommends that award be made to HTI Construction for the lowest responsive base bid of \$121,740.00 with additional alternate of \$9,600.00, for a not to exceed contract of \$131,340.00.

On motion by council member Buell second by council member Broaddus with all members present voting “aye” bid was awarded for the Magnolia Ditch Lining to HTI Construction in an amount not to exceed \$131,340.00.

APPROVE SELL OF A 2008 CHEVY SILVERADO TRUCK TO THE CITY OF SWEENEY FOR \$500

On motion by council member Baker second by council member Broaddus with all members present voting “aye” approval was granted for the sale of a 2008 Chevy Silverado truck to the city of Sweeny for \$500.

UPDATE ON LOWER BRAZOS RIVER STUDY

The Lower Brazos Basin Floodplain Management Stakeholders Meeting was held on Friday, Jan 10,2020 at Sugar Land City Hall. Please see attached presentation 20200110_P35750_Brazos.pdf, primarily pages 24 to 34 for talking points used to discuss what next steps need to be done in moving forward as an offspring from this study. In short, major take away were;

- A real need and necessity to develop a Lower Brazos River Coalition to maintain the H&H model
- Engage the NWS to enhance flood warning capabilities
- Engage the USACE to further develop the H&H model and flood warning capabilities
- Extend the model further upstream (I requested that they extend downstream including the Bastrop Bayou)
- Standardized Drainage Criteria used along the corridor
- Establishing a Lower Brazos Common Vision Group made up of local governments and other governances, that perhaps can come up with a similar Corridor Development Certificate (CDC) program as the Trinity River Common Vision did. Essentially a program to ensure development within the Brazos River Floodplain will not raise flood water levels or reduce flood plain storage capacity.

TWDB has been charged to institute flood planning across the state and preparing and adopting a comprehensive state flood plan by 2024. As a result, TWDB has proposed state flood planning rules and region boundaries. The boundaries are currently proposed to be the watershed divides of the major existing river basins only, combinations of coastal basins with adjacent major river basins having the potential of inter-basin flooding along with other factors, and combination of smaller river basins with larger ones based on similar type of flooding along with other factors making a total of 11 Flood Planning Regions. Subgroups or subcommittees can be designated by the regional flood planning groups to address issues associated with a geographic smaller area within respective regions.

DISCUSS THE TEXAS WATER DEVELOPMENT BOARD'S PROPOSED FLOOD MITIGATION AND FUNDING RULES

Sherril Russell presented the following information:

This past summer, the legislature passed SB 7, which establishes grants and low interest loans to political subdivision flood mitigation projects. The legislature also passed SB 8, which directs the Texas Water Development Board (TWDB) to adopt a state flood plan from regional flood plans. The TWDB has issued proposed rules for each of these laws and has asked for comments. The comments for SB 7 were due January 10th. The City's letter to the TWDB is in the packet.

The comments for SB 8 are due February 3, 2020. I have included the executive summary of the proposed rules for SB 8 in the packet. The executive summary does a good job of explaining the rules. If you would like to read the rules, which consists of 30 pages of densely spaced text, you can find them at <http://www.twdb.texas.gov/flood/index.asp#recentnews>.

I do not have a draft of our comments for the proposed SB 8 rules yet. Our main areas of concern are sufficient representation of cities and counties on the Regional Flood Planning Groups, lack of planning for the 500-year flood events, and state reimbursement to the local governments for all of the work that will go into these flood plans.

RATIFY AGREEMENT WITH REBECCA ANDREWS OF BEST, BEST, AND KRIEGER TO ASSIST THE CITY WITH THE TEXAS WATER DEVELOPMENT BOARD'S PROPOSED FLOOD MITIGATION AND FUNDING RULES

On motion by council member Roznovsky second by council member Buell with all members present voting "aye" an agreement with Rebecca Andrews of Best, Best and Krieger to assist the city with the Texas Water Development Board's proposed flood mitigation and funding rules was ratified.

UPDATE ON CONSTRUCTION PROJECTS

- a. Construction Funds Financial Update
- b. Sidewalk Projects
- c. Utility Repair Projects
- d. Drainage Repair Projects
- e. Woodland Park Paving Project

Eddie Herrera gave an update on the construction projects.

ITEMS OF COMMUNITY INTEREST

Council member Broaddus stated there was a good ribbon cutting at Olive Garden

Council member Roznovsky commented on the Traffic Commission minutes and stated the area on Sycamore he was referring to was the big curve on Sycamore to address the parking in that area.

Mr. Yenne stated Eric Wilson is leaving and he introduced Sabrina England as the new Public Works Director.

Mayor Sipple thanked Eric Wilson for his time at the city. Eric Wilson said he thought he was going to be here at the City longer, but he received an offer too good to refuse.

Mr. Yenne stated Olive Garden ribbon cutting was great.

ADJOURNMENT

There being no further business the meeting adjourned at 9:22 p.m.

These minutes read and approved this _____ day of _____ 2020.

Bob Sipple, Mayor

Alice A. Rodgers, City Secretary