

THE LEVELLAND CITY COUNCIL MET IN A REGULAR MEETING ON MONDAY, THE 26<sup>th</sup> DAY OF SEPTEMBER 2022, AT LEVELLAND CITY HALL, R. O. DENNIS COUNCIL CHAMBERS, 1709 AVENUE H, WITH THE FOLLOWING MEMBERS PRESENT:

Barbra Pinner	Honorable Mayor	Present
Jim Myatt	Council Member	Absent
Mary Engledow	Council Member	Present
Breann Buxkemper	Mayor Pro Tem	Present
Michael Stueart	Council Member	Present
Matt Wade	City Attorney	Present
Brandon Anderson	City Manager	Present
Andréa Corley	City Secretary	Present

The meeting was called to order at 6:00pm.

The Pledge was led by Mayor Barbra Pinner and the Invocation was given by Council Member Mary Engledow.

*Statements by Citizens:*

There were no statements by citizens.

**FIRST ITEM OF BUSINESS:**

*Consider and take necessary action to approve the minutes of the September 12, 2022, regular meeting.*

Motion by Breann Buxkemper

Seconded by Michael Stueart

To approve the minutes of the September 12, 2022, regular meeting.

Motion carried unanimously.

**SECOND ITEM OF BUSINESS:**

*Consider and take necessary action on Ordinance No. 1062 setting the 2022 Tax Rate.*

Due to Councilman Myatt's absence, Mayor Pinner moved this item to the end of the agenda, in the event he was simply running late.

No Action Taken

**THIRD ITEM OF BUSINESS:**

*Consider and take necessary action to approve Ordinance No. 1064 setting utility rates and credit card fees on a second reading.*

At our recent Utility Rate workshops we have discussed needed increases in several rates they are as follows:

-Increase in Monthly Sewer Improvement fee by \$6 in 2022-2023 which is reflected in this ordinance as well as increase \$6 in the 2023-2024 rates and finally increase \$6 in the 2024-2025 rates to be able to service the bond debt incurred by building the WWTP.

-Increase Monthly Refuse Rates by the 3.5% indicated in the letter received by Republic as well as stated in our Contract with Republic.

-Increase the Monthly Street Lighting Fee to \$3.50 to offset increase in cost to the city and make this a true pass-through expense.

-Change the Credit Card User Fee from a flat \$2.25 per transaction to a 2.75% charge for the transaction.

Motion by Mary Engledow

Seconded by Michael Stueart

To approve Ordinance No. 1064 setting utility rates and credit card fees on a second reading.

Motion carried unanimously.

**FOURTH ITEM OF BUSINESS:**

*Consider and take necessary action on Ordinance 1065 amending the City of Levelland's animal control ordinance as it relates to dogs and cats including, without limitation, limiting number of animals, regulating the breeding and associated animal service fees on a second reading.*

Earlier this year, the City Council established and appointed the Animal Services Task Force to assist the City with evaluating the policies and procedures of animal control and the animal shelter.

The resolution specified that task force shall help the City review policies and procedures in the following areas:

- The City's Animal Control Division
- The City's Animal Shelter
- The use of volunteers and non-profit animal rescue/welfare organizations in support of the City's animal control responsibilities.

Any other function or duty as requested or directed by the City Council or deemed advisable by the City Manager relating to the City's Animal Control Division.

-Recommendations on creation of an Animal Services Advisory Board

Motion by Breann Buxkemper

Seconded by Michael Stueart

To approve Ordinance 1065 amending the City of Levelland's animal control ordinance as it relates to dogs and cats including, without limitation, limiting number of animals, regulating the breeding and associated animal service fees on a second reading.

Motion carried unanimously.

**FIFTH ITEM OF BUSINESS:**

*Consider and take necessary action on Ordinance No. 1066 approving a negotiated settlement with Atmos West Texas on a first reading declaring current retail gas rates unreasonable and adopting a new tariff structure adopting retail gas rates consistent with the negotiated settlement including related findings.*

It has come to the attention of the City Manager that we were sent the wrong documents for the Atmos RRM case. The City adopted the rate ordinance approving the **Atmos Mid-Tex RRM**. We should have gotten documents for **Atmos West Tex**. Atmos has requested that the City adopt the correct ordinance.

The WTX Cities Executive Committee has approved an agreement with Atmos resolving their 2022 RRM filing. In its filing, the Company requested a rate increase of \$8,773,727. Our consultants conducted discovery and prepared a report detailing adjustments totaling \$3,289,496, which translates to a \$5,484,231 increase. The Company has agreed to settle the case for \$6,720,000. This is a reduction of **\$2,173,727** to the Company's request. Based upon all the factors, we believe this is a very good outcome.

Motion by Mary Engledow

Seconded by Breann Buxkemper

To Approve Ordinance No. 1066 approving the negotiated rate settlement with Atmos West Texas on a first reading.

Motion carried unanimously.

**SIXTH ITEM OF BUSINESS:**

*Consider and take necessary action on all matters incident and related to approving and authorizing publication and posting of notice of intention to issue certificates of obligation, including the adoption of Resolution No. 2022-36 pertaining thereto.*

This item addresses a resolution providing for the issuance of certificates of obligation to fund the wastewater treatment plant. The resolution limits both the maximum amount of the issuance (\$20,000,000) and the use of the proceeds (water and sewer system improvements and facilities).

The face amount and the use of the debt is the same as the previous resolution from the September 12<sup>th</sup>, 2022 council meeting. The total debt service, as detailed in the notice to be printed in the newspaper and on our website, is higher than a previously approved resolution due to issuing taxable bonds. The effluent contract with the ethanol plant prevents the city from issuing tax-exempt bonds, so the anticipated interest rate will be higher to account for the taxability of the bonds. A representative from Hilltop Securities attended the council meeting to answer questions.

The notice provides for city council to pass an ordinance authorizing the issuance of the certificates of obligations at the December 5<sup>th</sup>, 2022 council meeting.

Motion by Michael Stueart

Seconded by Breann Buxkemper

To approve Resolution 2022-36 authorizing the issuance of certificates of obligation.

Stueart and Buxkemper voted FOR the motion.

Engledow ABSTAINED from voting.

Motion passed on a 2-0 vote.

**SEVENTH ITEM OF BUSINESS:**

*Consider and take necessary action on Resolution No. 2022-37 approving an agreement with the Texas Department of Transportation regarding the closing of two blocks of state highway for the 2022 Trunk or Treat Event.*

The Levelland Main Street Program partners with the Levelland Noon Lions Club to put on the annual Trunk or Treat Halloween event. This year's event is scheduled for the evening of October 31st, and will include community members hosting a booth (sometimes the trunk of their vehicle, sometimes a canope & table) with candy and/or fun activities or prizes for the kids. In order to hold the event, for the safety of all participants, the City and TxDOT will need to temporarily close several streets. When most events are held downtown, we close Houston Street on the north side of the square and Avenue H on the west side of the square. These two streets are state highways. In order to close them for more than a few hours the State requires that the City approve an agreement for the temporary closure of state right of way. The agreement simply states the requirements the City has when closing down a State highway.

Motion by Breann Buxkemper

Seconded by Michael Stueart

To approve Resolution No. 2022-37 approving an agreement with the Texas Department of Transportation regarding the closing of two blocks of state highway for the 2022 Trunk or Treat on Main Street Event.

Motion carried unanimously.

**EIGHTH ITEM OF BUSINESS:**

*Consider and take necessary action on the event application for the 2022 Ladies Night Out Event.*

The Levelland Main Street Program is planning to hold the annual Ladies Night Out Event on Thursday November 10th. This longstanding and award-winning event is built around our downtown businesses, and event-goers are enthusiastic about attending it every year.

Though the Main Street Program does not serve any alcohol at this event, downtown retailers can, and often do, serve alcohol inside their businesses. Because there is a chance that event-goers will travel along the city sidewalks and through the (closed) city streets with a beverage in their hands, this event application comes before Council for approval.

Motion by Breann Buxkemper

Seconded by Michael Stueart

To approve event application for the 2022 Ladies Night Out Event.

Motion carried unanimously.

**NINTH ITEM OF BUSINESS:**

*Consider and take necessary action on Resolution No. 2022-38 approving an agreement with the Texas Department of Transportation regarding the closing of two blocks of state highway for the 2022 Ladies Night Out Event.*

The Levelland Main Street Program is planning to hold the annual Ladies Night Out Event for **Thursday November 10th**. In order to hold the event, the City and TxDOT will need to temporarily close several streets. When events are held downtown, we normally have to close Houston Street on the north side of the square and Avenue H on the west side of the square. These two streets are State highways and in order to close them the State requires that the City approve an agreement for the temporary closure of state right of way. The agreement simply states the requirements the City has when closing down a State highway.

Motion by Mary Engledow

Seconded by Breann Buxkemper

To approve Resolution No. 2022-38 approving an agreement with the Texas Department of Transportation regarding the closing of two blocks of state highway for the 2022 Ladies Night Out Event.

Motion carried unanimously.

**TENTH ITEM OF BUSINESS:**

*Consider and take necessary action on Resolution No. 2022-40 reviewing and approving the City of Levelland Investment Policy.*

To be in accordance with the State of Texas Public Funds Investment Act, City Council is to review and adopt by resolution its Investment Policy on an annual basis.

The City's Investment Policy provides the expectations and guidance as to how the City's investments are to be administered.

There are no proposed changes to the investment policy from the prior year.

Motion by Breann Buxkemper

Seconded by Michael Stueart

To appoint Resolution No. 2022-40 reviewing and approving the City of Levelland Investment Policy.

Motion carried unanimously.

**ELEVENTH ITEM OF BUSINESS:**

*Consider and take necessary action on Resolution No. 2022-41 amending the fiscal year 2021-2022 budget.*

As we near the end of the fiscal year, the following budget amendments are needed to reflect an accurate representation of the expenditures for fiscal year 2021-2022.

No. 1: Account for increased advertising costs (job postings, notices, hearings)

No. 2: Account for delayed receipt of police vehicles purchasing using the internal finance fund

No. 3: Account for the dump truck approved in FY20/21 and received in FY21/22, as well as reflect delayed receipt of pickup truck approved in prior budget and not expected until Spring 2023

No. 4: Account for funds contributed by the LCDC for park projects

- No. 5: Account for increased cost of software maintenance
- No. 6: Account for increased fuel costs across multiple departments
- No. 7: Account for increased utility costs across multiple departments
- No. 8: Account for additional police training paid for out of special funds
- No. 9: Account for increased software maintenance costs and credit card / online payment fees
- No. 10: Account for increased overtime pay in the water department
- No. 11: Account for table/chair upgrades that are delayed due to supply chain issues
- No. 12: Account for Municipal Court Building Security Fund activity for fiscal year 2021/2022
- No. 13: Account for Time Payment Court Fee Fund activity for fiscal year 2021/2022
- No. 14: Account for second tranche payment not received by end of fiscal year 2021/2022; account for interest earned and engineering fees on infrastructure master plan
- No. 15: Account for fees paid to consultant to prepare paperwork for Event Trust Fund applications
- No. 16: Account for Court Computer Fund activity for fiscal year 2021/2022
- No. 17: Account for State Forfeitures Fund activity for fiscal year 2021/2022
- No. 18: Account for Texas Parks and Wildlife trail grant that was awarded but is delayed
- No. 19: Account for interest earned on Chapter 380 funds and reflect council-approved façade grants
- No. 20: Account for sale of rail park lot(s) not completed in fiscal year 2021/2022
- No. 21: Account for initial payment on effluent contract and reflect engineering expense related to Texas Water Development Board application for wastewater treatment plant
- No. 22: Account for decrease in interest earned in TIF #1, as well as developer's contribution for lot development and public works improvements for Holly Heights II
- No. 23: Account for decreased interest earned in federal forfeitures fund
- No. 24: Account for two grants (PD radios, MOV camera) in the police grants fund
- No. 25: Account for animal shelter fund activity for fiscal year 2021/2022
- No. 26: Account for increased TIF #2 funds used to offset LEDC debt service
- No. 27: Account for decreased interest earned and related park projects approved by LCDC board and City Council
- No. 28: Account for Main Street Fund activity for fiscal year 2021/2022
- No. 29: Account for Local Truancy Prevention Fund activity for fiscal year 2021/2022
- No. 30: Account for overages on 8<sup>th</sup> Street Water Line grant project
- No. 31: Account for demolition expenses approved in 2021/2022 budget but unable to complete until 2022/2023

Motion by Michael Stueart

Seconded by Breann Buxkemper

To approve Resolution No. 2022-41 amending the fiscal year 2021-2022 budget.

Motion carried unanimously.

**TWELFTH ITEM OF BUSINESS:**

*Consider and take necessary action on an agreement with the Texas Department of Transportation for the Fiscal Year 2022/2023 Routine Airport Maintenance Program.*

The Texas Department of Transportation (TxDOT) Aviation Division has an annual grant program called the Routine Airport Maintenance Program (RAMP) that is targeted towards routine maintenance and improvement items for qualified airports. Items such as repairing or improving airport pavement, signage, drainage, approach aids, lighting systems, utility infrastructure, hangars, fencing, as well as work on terminal buildings is allowed. The program requires a cash match of 50 percent of the total project cost with a maximum contribution from TxDOT in the amount of \$50,000.

The City of Levelland and Hockley County have utilized the program in the past for items such as hangar repair, runway light maintenance, repairing the pavement, utility improvements, and replacing the fuel system. Historically Council has budgeted \$25,000 in the airport fund to match the grant program which allows the City and County to request up to \$25,000 from TxDOT for airport improvements.

Many routine airport maintenance items that come up throughout the year are often eligible for the program.

Motion by Breann Buxkemper

Seconded by Michael Stueart

To approve an agreement with the Texas Department of Transportation for the Fiscal Year 2022/2023 Routine Airport Maintenance Program.

Motion carried unanimously.

**THIRTEENTH ITEM OF BUSINESS:**

*Convene into executive session in accordance with Tex. Gov't Code §551.074 to deliberate the appointment, employment, evaluation, duties, discipline, or dismissal of a public officer or employee: Municipal Court Judge.*

Mayor Pinner declared Council to be in Executive Session at 6:42pm. She returned Council to regular session at 7:24pm.

**FOURTEENTH ITEM OF BUSINESS:**

*Consider and take necessary action to appoint or reappoint the Municipal Court Judge.*

The City Council of the City of Levelland is charged with the duty of Reappointment or Appointment of the Municipal Judge as one of their duties delegated by Charter. By statute the



State sets that term to be 2 years unless the municipality provides for a longer term. I can find no documentation designating a term and feel the Council should consider making this reappointment or appointment to suffice the statute.

With regard to the appointment of the municipal court judge:

Article V, Section XIV of the City Charter states that one of the duties of the City Council is to appoint the municipal court judge by majority vote. Also, Section 8.304 of the Levelland Code of Ordinances (Ordinance 770) also state that the Council appoints the municipal court judge. Both provisions state that the judge serves at the will and pleasure of the City Council but see the state law provisions below.

Tex. Gov't Code Ann. § 29.005 sets the term of the municipal court judge at “two years unless the municipality provides for a longer term pursuant to Article XI, Section 11, of the Texas Constitution [*not applicable to Levelland*]. A municipal court judge who is not reappointed by the 91st day following the expiration of a term of office shall, absent action by the appointing authority, continue to serve for another term of office beginning on the date the previous term of office expired.”

The courts have interpreted this to mean that a municipal court judge is not an at-will employee and may only be removed from office before the expiration of the two-year term for some sort of “cause”.

Motion by Breann Buxkemper

Seconded by Michael Stueart

To allow the City Manager to receive applications from individuals interested in the municipal judge position, including the current municipal judge.

Motion carried unanimously.

## **SECOND ITEM OF BUSINESS:**

*Consider and take necessary action on Ordinance No. 1062 setting the 2022 Tax Rate.*

(Due to Councilman Myatt’s absence, Mayor Pinner moved this item to the end of the agenda, in the event he was simply running late.)

Once the budget is adopted the tax rate can then be voted on. The proposed tax rate was set at \$0.579191 on August 8<sup>th</sup>, which is at the “De Minimis Rate” and is the highest rate the Council could consider without triggering an election of the constituents. The “No-New-Revenue Rate” is \$0.521216 which is the rate that would produce the same amount of taxes this year when applied to the same properties that were taxed last year. The “Voter-Approval Rate” is \$0.55980 and is the rate Council can adopt without the option for a petition from the voters.

At this time the proposed budget is figured at the “No-New-Revenue Rate” and can be amended later if a higher rate is adopted. As discussed in Budget Workshops this budget does not include payments back to internal finance fund as well as nor seal-coat project in this budget.

Motion by Michael Stueart

Seconded by Breann Buxkemper

To approve the Voter Approval Rate of \$0.559840

Stueart and Buxkemper voted FOR the motion.

Engledow voted AGAINST the motion.

With a 2-0 vote, the motion did not meet the rule of 60% vote from Council, which is required when passing a tax rate.

Motion by Michael Stueart

Seconded by Breann Buxkemper

To approve a rate of \$0.54

Stueart and Buxkemper voted FOR the motion.

Engledow voted AGAINST the motion.

With a 2-0 vote, the motion did not meet the rule of 60% vote from Council, which is required when passing a tax rate.

Motion by Mary Engledow

To approve the No New Revenue Rate of \$0.521216

Motion failed for lack of a second.

No action was taken on this item.

Motion by Michael Stueart

Seconded by Breann Buxkemper

To adjourn the meeting

Motion carried unanimously.

There being no further business, the meeting was adjourned at 7:35pm.

Respectfully Submitted,

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Andréa Corley, TRMC  
City Secretary

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Barbra Pinner, Mayor