

THE STATE OF TEXAS §
COUNTY OF ANDERSON §
CITY OF PALESTINE §

The City Council of the City of Palestine, Texas convened in a Regular Meeting on Monday, June 8, 2015 at 4:30 p.m. for the Work Session in the City Hall Conference Room, and at 5:30 p.m. for the Regular Meeting in the Council Chambers at City Hall, 504 N. Queen Street, Palestine, Texas, with the following people present:

Mayor Bob Herrington; Mayor Pro Tem Adam Harding; Councilmembers Mitchell Jordan, Vickey L. Chivers, Doug Smith, and Steve Presley; City Manager Wendy Ellis, City Secretary Teresa Herrera, and City Attorney Ronald Stutes.

Others Present: Robert Sedgwick, James Reed, Cristi Watkins, Alan George, C. Skinner, Dan Davis, and Ricky Minton.

Councilmember Jordan arrived at 4:45 p.m. Mayor Herrington was absent for the work session. Councilmember Thompson was absent for the work session and regular meeting. A quorum of the Council was present.

WORK SESSION

Mayor Pro Tem Harding called the work session to order at 4:30 p.m.

Discuss City Code Chapter 42, Article II, regarding the requirements and standards for granting franchises to provide ambulance service

City Attorney Ron Stutes led discussion regarding current requirements and standards for granting franchises to provide ambulance service. The City recently received an inquiry from Archery Transport seeking a permit to provide ambulance service to and from the City. This issue has been raised in the past, but has not be addressed by Council. He discussed the city's ordinance, the underlying concepts that support the ordinance, and the issues that the ordinance raises. The City's ordinance is unusual in the City Code. An applicant who possess the proper skills, equipment, insurance, or experience is entitled to receive a permit. Under Section 42-40(c), an applicant for an ambulance franchise "shall not be granted, unless the city council finds and determines that the public convenience and necessity will be served. Public convenience and necessity as set out by ordinance 1) the location of the service and whether the area in which it is located will benefit from additional service; 2) the proximity to hospitals; 3) the number of ambulances that are available to provide service and whether the additional service "will create ruinous competition;" 4) the timeliness of responses to dispatcher calls; 5) population density; 6) the number of ambulances proposed to be operated and the hours of proposed services; and 7) the quality of service previously provided by the applicant. Past applications for franchises for ambulance service in Palestine have met with opposition from existing service provider, who argued that additional competition would be, "ruinous." Previous councils have found that argument convincing, and have denied applications for additional franchises. It is difficult to know with certainty what would have happened if the council had granted an additional franchise.

Mr. James Reed explained that he is currently providing ambulance service to the hospital at their request and he wants to follow the rules and he has not been following the rules according to the current ordinance. Hospital representatives were present that they informed Council that they have a good working relationship with Mr. Reed. Also, hospital informed Council that they use other ambulance services to help out with transportation of patients to and from the hospital.

Council directed the city attorney to draft an ordinance proposing a new category called auxiliary ambulance service. Auxiliary service could be provided under the direction and at the request of a franchise holder either by an ambulance service licensed by some other jurisdiction or by an auxiliary permit holder.

This item will be discussed at another work session in the future.

With no other business to come before the Council, the work session was adjourned at 5:25 p.m.

CALL TO ORDER – REGULAR MEETING

Mayor Herrington called the Regular Meeting to order at 5:30 p.m.

INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Councilmember Smith, and was followed by Pledge of Allegiance.

PUBLIC COMMENTS, PUBLIC RECOGNITION, AND ANNOUNCEMENTS

Chief Alexander recognized the following Police Department personnel Assistant Chief Jeff Powell, Administrative Captain James Muniz, Community Liaison Bernadette Knowles-Capron, Professional Standards Gary Grimes, Code Enforcement Officer Patsy Smith, and Officer Jimmy Partin.

Officer Smith and Community Liaison Knowles-Capron recognized Palestine High School Audio/Visual students Elvin Espinoza and Destiny Harding for video that they put together for code enforcement. The video will be presented at future Council meeting.

Mayor Herrington read aloud proclamation for U.M. Army Week of June 14-20.

James Smith addressed Council regarding City government.

Leon Willhite addressed Council regarding city manager position.

Robert Johnston addressed Council regarding city manager and Union Pacific Railroad contract.

Tim Perry addressed Council regarding city manager evaluation.

Nan Broch addressed Council regarding Wendy Ellis.

Laura Westgate addressed Council regarding vote on termination of city manager.

Robert Sedgwick addressed Council regarding city manager.

Jackson Hanks addressed Council regarding city manager evaluation.

Will Brule addressed Council regarding city manager evaluation.

CONFLICT OF INTEREST DISCLOSURES

Mayor Pro Tem Harding filed affidavit on abstention from voting on Item 2 of the Regular Agenda and the public hearing.

PUBLIC HEARING

Public Hearing regarding a specific use permit application submitted by Owen Palestine, L.P. to allow an off-premise sign to be located on a 0.447 acre tract of land in the William S. McDonald Survey, A-43 which is generally located at the southwest corner of the intersections of S. Loop 256 and Old Elkhart Road. The sign will advertise the off-site businesses in the multi-tenant building located directly to the south of the property where the off-premise sign will be installed

Development Services Director Lyons provided the following information regarding the specific use permit application submitted by Owen Palestine, L.P. Five notices were mailed to surrounding property owners. There were none returned in favor nor opposition. Property is a single tract of undeveloped land being 0.447 acres in the Williams S. McDonald Survey, A-43. The property is part of the Commercial Corridor Overlay District, which allows pole signs to be constructed a maximum of 50-feet in height with an advertising area of 400 square feet. The Planning and Zoning Commission conducted a public hearing on the request during the May 7th regular meeting. Mayor Herrington opened the public hearing and asked for anyone speaking for or against the request to do so. With no one speaking, Mayor Herrington closed the public hearing.

MAYOR'S REPORT

No report was presented.

ITEMS FROM COUNCIL

Councilmember Presley reported on the following activities at the Texas State Railroad:

- Sunday, June 21 Father's Day BBQ Train
- Saturday, July 4 The Texas Hobo Cook-Off and Gypsy Jamboree this is a IBCA Sanctioned Event
- Short-line rail service is seeking clients to service

Mayor Pro Tem Chivers reported on the Negro Historical Preservation Society's Juneteenth events:

- Juneteenth Pageant June 18
- Fish Fry at Calhoun Park June 19
- Parade June 20

CITY MANAGER'S REPORT

Departmental report for Development Services, Municipal Court, Utilities, Public Works, and Library were provided.

City Manager Ellis informed Council that Historic Preservation Officer Jacob Morris, and Main Street Manager Laura Westgate received recognition on the Texas Historical Commission, Main Street Matters, a monthly publication of the Texas Main Street Program, for "Historic Wooden Window Workshop" during Preservation Month in May 2015; and Palestine was highlighted for social media campaign for participating in the National Trust Historic Preservation "This Place Matters Campaign." Palestine was the only Texas city for the first two weeks showing on the social media campaign. Also, the following events are scheduled: 1) budget meetings will take place on Monday, June 22 and Tuesday, June 23; 2) Texas Dixie Youth Baseball District 6 Tournament will at Alethic Complex on Friday, June 19 through Monday, June 22; 3) Library summer reading program; and 4) movie at Reagan Park on Saturday, June 20.

Mayor Herrington asked if there was an application for water and sewer taps. Utilities Director Sedgwick answered yes.

Mayor Herrington asked for status of home demolition and if the city had used independent contractors in the past and whether the city requires that the contractors be insured. Development Director Lyons answered that due to the cost of hauling the debris to Jacksonville or Transfer Station the project has been stopped and yes independent contractors must provide insurance and yes the city has used independent contractors in the past.

OPEN BIDS

Bids were received and opened for Fuel Management System for Gasoline and Diesel Fuel (Bid# 2015-05).

<u>Name</u>	<u>Estimated Yearly</u>	
	<u>Unleaded</u>	<u>Diesel</u>
Velvin Oil Company, Henderson, TX	\$21,000	\$13,020
Petroleum Traders Corporation, Fort Wayne, IN	\$16,800	\$12,180
Spencer Distributing, L.P., Palestine, TX	\$16,200	\$11,760

CONSENT AGENDA

- 1) Consider Approval of Minutes of the Work Session and Regular Meeting of March 9, 2015
- 2) Consider Approval of Minutes of the Work Session of March 23, 2015
- 3) Consider Approval of Minutes of the Work Session and Special Meeting of March 30, 2015
- 4) Consider Approval of Minutes of the Work Session and Special Meeting of April 9, 2015
- 5) Consider Approval of Minutes of the Work Session and Regular Meeting of April 13, 2015
- 6) Consider Approval of Minutes of the Work Session and Regular Meeting of April 27, 2015
- 7) Consider Approval of Minutes of the Work Session and Regular Meeting of May 11, 2015

8) Consider Approval of Minutes of the Regular Meeting of May 18, 2015

Mayor Herrington pulled items 1 through 7 and moved them to the regular agenda.

Mayor Pro Tem Harding made a motion, seconded by Councilmember Chivers, to approve the Consent Agenda item #8 as presented. Upon vote, motion carried unanimously.

REGULAR AGENDA

Consider Approval of Minutes of the Work Session and Regular Meeting of March 9, 2015; Consider Approval of Minutes of the Work Session of March 23, 2015; Consider Approval of Minutes of the Work Session and Special Meeting of March 30, 2015; Consider Approval of Minutes of the Work Session and Special Meeting of April 9, 2015; Consider Approval of Minutes of the Work Session and Regular Meeting of April 13, 2015; Consider Approval of Minutes of the Work Session and Regular Meeting of April 27, 2015; Consider Approval of Minutes of the Work Session and Regular Meeting of May 11, 2015

Mayor Herrington pointed out that some of the minutes were more than 90 days old. He requested that minutes be presented to Council in a timely manner. Also, the signature on the minutes needs to be changed to current Mayor. Mayor Pro Tem Harding made a motion, seconded by Councilmember Chivers, to approve the minutes of March 9 through May 11 with change from previous Mayor to current Mayor to sign. Upon vote, motion carried unanimously. Mayor Herrington abstained from voting.

Consider approval of 12 month lease for Theresa M. Wilcox Nolen dba Lattes & Lace at Palestine Mall

City Manager Ellis informed Council that the Real Estate Committee recommended approval of lease. Theresa M. Wilcox submitted a request to lease approximately 1032 square feet in the Palestine Mall, which was the Bon Appetite area to begin in August 1, 2015. The lease document provides for a base rent and common area maintenance. The proposed rent amount is \$500.00 per month. The lease is for twelve months and reevaluated after twelve months. Lattes & Lace will serve lattes, espressos, cappuccinos, and tea along with a small choice of baked goods for breakfast, a daily lunch special and snack items. Mayor Herrington asked why the lease document was not included in the packet. City Manager Ellis responded that the standard lease agreement would be used at this location. Councilmember Presley made a motion, seconded by Councilmember Smith, to approve the terms of the lease using the standard form contract for Palestine Mall and if there is any deviation to the standard contract, then the contract needs to be brought back to Council for approval. Upon vote, motion carried unanimously.

Mayor Pro Tem Harding had some concerns with Wi-Fi strength. Ms. Wilcox answered that she had already discussed the concerns with Library staff.

Consider an ordinance for a specific use permit submitted by Owen Palestine, L.P. for an off-premise sign to be located on a 0.447 acre tract of land in the William S. McDonald Survey, A-43 which is generally located at the southwest corner of the intersections of S. Loop 256 and Old Elkhart Road. The sign will advertise the off-site businesses in the multi-tenant building located directly to the south of the property where the off-premise sign will be installed

Mayor Pro Tem Harding filed affidavit on abstention from voting with the City Secretary. Development Services Director Lyons provided a summary. The Planning and Zoning Commission conducted a public hearing on the request during the May 7th regular meeting and recommended approval with the following stipulations: 1) the off-premise sign may be constructed anywhere on the 0.447 acre tract subject to meeting all required sign structure setbacks; 2) the sign must be constructed as shown on the sign rendering (Exhibit A); 3) an off-premise advertisement is limited to only the tenants that are located in the multi-tenant building that has a primary address of 2200 S. Loop 255; and 4) the off-premise sign shall not contain any advertising that can be changed by electronic processes or contain any moving messages.

Councilmember Smith made a motion, seconded by Councilmember Chivers, to approve Ordinance No. O-24-15 as presented. Upon vote, motion carried unanimously.

Consider authorizing the City Manager to Advertise a Request for Qualifications (RFQ) for Legal Services and receive responses to the request

Council directed the City Manager to prepare a draft RFQ document for Council to consider at the June 22 meeting and change the proposal from ten years municipal law experience to the attorney(s) must have 5 years minimum general law experience, municipal law experience preferred, but others will be considered. The attorney(s) may submit proposals to include prosecutorial and/or city attorney services.

Discuss status of agreements with the City of Palestine, Anderson County, and Union Pacific to amend the 1954 agreement regarding the location of offices and operations at Palestine, Texas

Mayor Herrington asked for status of the agreement. City Attorney Stutes reported that it is an ongoing process, on September 9, 2013, City Council approved to allow the city attorney to negotiate an agreement concerning the city's agreement with Union Pacific Railroad to locate certain facilities and jobs to the City of Palestine. The 1954 agreement is not just a contract with the City and the Railroad it is an agreement with the City, the County, the Railroad, and the people of Palestine and Anderson County approved by a court. Changing the agreement was a complex process and an agreement was reached of the how the process would go forward. Then, an amendment and motion to be filed with the court to approve that amendment was drafted. The previous City Council was asked to recommend citizens to sign the agreement and since they did not provide feedback the City Manager, County Judge, and City Attorney named the citizens. The amendment has been signed by the City, the County, and the three citizens. In March the amendment was sent to Union Pacific and it has not been returned.

The 1954 agreement is a codification of something that was written in 1918, to justify the oral agreement between the City and Union Pacific. The agreement required that the International Great Northern Railroad keep its headquarters at the City of Palestine. In return the City of Palestine and Anderson County sold some bonds, borrowed money to give to that railroad to build its headquarters and build houses for its officials. The International Great Northern Railroad was coming from Houston and part of the agreement was that they would extend their railroad to Palestine and they would move their headquarters to Palestine. International Great Northern went bankrupt and they consolidated in the first part of the 20th century. Since International Great Northern Railroad did not exist anymore, it was part of Missouri Pacific Railroad, were they obligated to keep their headquarters in Palestine. The case went to the Supreme Court and the Supreme Court ruled that it was an obligation of the railroad to maintain facilities at Palestine. The City, the County, the Railroad, and the people of Palestine and Anderson County went to the court with a request to have an agreement in writing with the percentage of jobs and certain categories that the railroad had to maintain at Palestine and it also set out a formula recognizing that there would be more mergers with the railroad. The formula is used to calculate the numbers of jobs that have to be maintained at Palestine. To this date Union Pacific Railroad, UPRR, sends a monthly report to the City of Palestine.

In 2013 UPRR wanted to establish a railcar refurbishing center and one of the options was the old ALCOA property outside the city limits. The question became whether UPRR was still in accordance with the agreement. UPRR is going to increase jobs that would benefit the city. Also, the agreement was not changed only a definition was added.

Mayor Herrington directed City Attorney to negotiate a higher percentage for the City of Palestine.

Take any action necessary regarding the agreement with the City of Palestine, Anderson County, and Union Pacific to amend the 1954 agreement regarding the location of offices and operations at Palestine, Texas

No action was taken.

CLOSED SESSION

Mayor Herrington announced that Council would go into Closed Session pursuant to Section 551.071 regarding consultation with attorney, pending or contemplated litigation, and Section 551.074 regarding personnel matters. The time was 7:20 p.m.

- 1) Briefing on state law, city charter, and city ordinances regarding the permissible location of establishments selling alcoholic beverages, including discussion of the application of Trimbates, LLC to the Texas Alcoholic Beverage Commission for a Wine and Beer Retailer's Off-Premise Permit

- 2) Discuss the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the City Manager
- 3) Discuss the possible appointment of an interim city manager

RECONVENE IN REGULAR SESSION

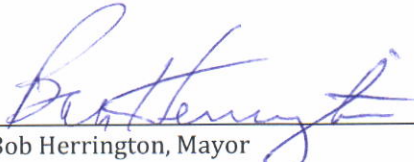
Mayor Herrington reconvened the Council into open session at 10:19 p.m.

No action was taken from the closed session.

ADJOURN

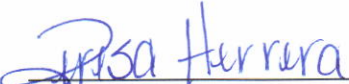
With no other business to come before the Council, the meeting was adjourned at 10:19 p.m.

PASSED AND APPROVED THIS 22ND DAY OF JUNE, 2015.



Bob Herrington, Mayor

ATTEST:



Teresa Herrera, City Secretary

