

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, March 25, 2019 at 3:30 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:

Steve Presley, Mayor  
Mitchell Jordan, Mayor Pro Tem  
Larissa Ray Loveless, Councilwoman  
Vickey L. Chivers, Councilwoman  
Joe Baxter, Councilman  
Dana Goolsby, Councilwoman  
Ann Connor, Councilwoman

Michael Hornes, City Manager  
Teresa D. Herrera, City Secretary  
Jeff Herrington, Interim City Attorney

Others present: Library Board Members Portia Rodgers and Cynthia Thorton, Jack Coleman, Dr. Carolyn Salter, Public Works Director Tim Perry, PEDC Director Gayle Cooper, Librarian Ana Sanchez, Karla Lang, Library Director Theresa Holden, Interim Development Services Director Mark Miers, Community Services Director Patsy Smith, Interim Finance Director Jim Mahoney, City Manager's Admin. Hilda Moeller, and other interested citizens;

with the following member absent: none. Interim City Attorney Herrington was not present for the work session.

**WORK SESSION**

With a quorum present, Mayor Presley called the work session to order at 3:30 p.m.

1) Discuss Annual Audit for Fiscal Year 2017-2018. Auditor Frank Campos

Frank Campos and Maria Campos presented the audit. Mr. Campos informed that the process went well and the City's financial position did improve. The City's total net position is \$30,955,893. Mr. Campos clarified that the recent loss of the lawsuit is not reflected in this audit. The general fund balance is going in the right direction; right now it is at \$1,765,949 but it should be \$3,500,000. Enterprise Funds were discussed; Mr. Campos added that the Enterprise Fund could loan money to General Fund to pay lawsuit judgement. Sanitation Fund has improved over the years. Finance department turnover was for the betterment of the department. Mr. Campos informed that many of the previous audit findings were corrected during this audit.

Mr. Campos informed that the City is in good position, the general fund improved, and positive fund balance. He recommended that the City improved the general fund by \$500,000 each year.

Discussion was held.

2) Discuss mold remediation services proposal for Palestine Public Library. Public Works Director Tim Perry

Public Works Director Perry led the discussion. Josh Small explained the mold at the Library. The mold was caused by AC duct work with a leak on the roof. ESESIS will clean the mold for the paper products without damaging the material. Type of mold was explained. At the end of the clean-up a report will be provided and post remediation mold assessment and clearance. ESESIS is licensed by the State of Texas.

Also, the duct work will be cleaned in small amount; there is small amount of debris in the system where the mold has built. The State of Texas will need to be notified of the mold remediation. State might check on the site to make sure that the work is being done according to the State rules.

3) Discuss Code of Ethics for City Council. Councilwoman Dana Goolsby

Councilwoman Goolsby explained that this is the first draft. Investigation will go through City Manager, because they will require City staff time. Council will continue working on revision to this draft.

4) Update on the Ferguson Road Project. Councilman Joe Baxter

Councilman Baxter explained he received a call from a constituent and it turned out that Ferguson is within District 3. There needs to be more communication with the public on road repairs.

Public Works Director Perry explained that Ferguson Road was designed as an inverted street; an unacceptable design no longer used in the city and large portion of the road has suffered heavy erosion. He explained the repair process.

5) Discuss the creation of a TIRZ and TIF. Mayor Steve Presley

Mayor Presley explained that the following were benefits of a TIRZ: builds needed public infrastructure in areas lacking adequate development to attract businesses; encourages development, thereby increasing property values and long-term property tax collections; and reduces the cost of private development by providing reimbursement for eligible public improvements. He informed that he will continue to do research on this and extended the invitation to the other Councilmembers.

6) Discuss the applying for the Safe Routes to School Grant from TxDOT. Mayor Steve Presley

Council will discuss during the regular meeting.

With no other business to come before the Council, the work session was adjourned at 5:22 p.m.

**CALL TO ORDER – REGULAR MEETING**

Mayor Presley called the Regular Meeting to order at 5:31 p.m.

**INVOCATION AND PLEDGE OF ALLEGIANCE**

The invocation was given by Pastor Roy Duncan from Antioch Church, and was followed by the Pledge of Allegiance.

**PROPOSED CHANGES OF AGENDA ITEMS**

There were no proposed changes.

**PUBLIC COMMENTS, PUBLIC RECOGNITION, AND ANNOUNCEMENTS**

Keith Smith spoke regarding Westwood streets.

Shane Willard spoke regarding road conditions at the Ferguson Road area.

Donna Jordan Mouton regarding street sanitation/roads.

AD Ethridge spoke regarding the work session; moving the work session to Council Chambers.

Jack Coleman spoke regarding the budget process and ability to use audit as a tool to develop a budget.

Barbara Jordan spoke regarding the proposal for the task force on old memorial hospital site.

Bonnie Woolverton spoke regarding the upcoming book sale on April 5<sup>th</sup>.

Police Chief Andy Harvey introduced new Police Officers Royston Wilson and Carlton Allen. Officer Wilson was pinned by his daughter Ronnie and Officer Allen was pinned by his wife Tawna.

**CONFLICT OF INTEREST DISCLOSURES**

No action was taken.

**MAYOR'S REPORT**

Mayor Presley reported on the following: attended Palestine Day's in Austin, and ETCOG Board meeting. He welcomed visitors at Dogwood Jamboree. Also, today is National Medal of Honor Day and Steven Bennett was awarded the Medal of Honor.

**ITEMS FROM COUNCIL**

Councilwoman Goolsby encouraged all to visit Dogwood Trails and provided information on the Texas Theatre spring production "Gilligan's Island: The Musical".

Councilwoman Chivers spoke regarding Palestine Day's in Austin and announced that Rev. Duncan will be celebrating a birthday tomorrow.

Councilwoman Loveless announced that Family Fish Day will be on April 13th at Wolf Creek Lake.

Mayor Pro Tem Jordan recognized two group of kids that represented Palestine in a tournament in Teague.

**CITY MANAGER'S REPORT**

City Manager Hornes spoke about upcoming events.

Nutcracker recap was presented Mary Raum and Rachel Nichols. Over 1,300 tickets were sold, 100 volunteer hours, \$2,700 sponsorships. This was a professional ballet. The numbers look good; it was a good two day event. The event ran at \$5,000 loss not including the volunteers, housing, or food. Marketing Manager Raum added that they brought arts and culture to the community.

City Manager Hornes informed that department directors were present to address questions from Council regarding reports.

Public Works (Administration, Facilities, Fleet, Airport, Streets, Utilities, Waste, & Refuse), Police Stats, Tourism, and Finance (Property Tax and Sales Tax) departmental reports were provided.

Council had questions regarding reports.

**BOARD APPOINTMENTS**

Consider appointment of Will Brule to Place 2 on the Zoning Board of Adjustments and Appeal with term to expire September 30, 2019.

Mayor Pro Tem Jordan made a motion, seconded by Councilwoman Loveless, to approve the appointment as presented. Upon vote, motion carried unanimously 7-0.

**CONSENT AGENDA**

- 1) Consider approval of minutes of the Work Session and Regular Meeting of January 28, 2019.
- 2) Consider approval of minutes of the Work Session and Regular Meeting of February 11, 2019.
- 3) Consider approval of minutes of the Town Hall Meeting of February 18, 2019.
- 4) Consider approval of invoices over \$25,000. Interim Finance Director Jim Mahoney
- 5) Consider authorizing Staff to obtain bids for the sale of City-owned property located at 806 W. Oak Street. Interim Development Services Director Mark Miears
- 6) Consider authorizing Staff to obtain bids for the sale of City-owned property located at 720 W. Oak Street. Interim Development Services Director Mark Miears
- ~~7) Consider a resolution authorizing continued participation with the Steering Committee of Cities served by Oncor; and authorizing the payment of eight cents per capita to the steering committee~~

- ~~to fund regulatory and legal proceedings and activities related to Oncor Electric Delivery Company, LLC. City Manager Michael Hornes~~
- 8) ~~Consider a resolution authorizing continued participation with the Atmos Cities Steering Committee; and authorizing the payment of five cents per capita to the Atmos Cities Steering Committee to fund regulatory and related activities related to Atmos Energy Corporation. City Manager Michael Hornes~~
- 9) Consider letter of support to the Texas legislature regarding HB2196; sale of alcoholic beverages on certain property owned by the Texas State Railroad. Mayor Steve Presley
- 10) Consider accepting donation of time and material from Vulcraft for beautification of the Farmers Market area. City Manager Michael Hornes

Mayor Pro Tem Jordan made a motion, seconded by Councilwoman Chivers, to approve Consent Items 1 thru 6, 9, and 10 as presented. Items 8 and 9 were pulled for discussion. Upon vote, motion carried unanimously 7-0.

### **REGULAR AGENDA**

Consider a resolution authorizing continued participation with the Steering Committee of Cities served by Oncor; and authorizing the payment of eight cents per capita to the steering committee to fund regulatory and legal proceedings and activities related to Oncor Electric Delivery Company, LLC. City Manager Michael Hornes

City Manager Hornes provided a summary. Discussion was held.

Councilwoman Chivers made a motion, seconded by Mayor Pro Tem Jordan, to approve **Resolution No. R-10-19** as presented. Upon vote, motion carried unanimously 7-0.

Consider a resolution authorizing continued participation with the Atmos Cities Steering Committee; and authorizing the payment of five cents per capita to the Atmos Cities Steering Committee to fund regulatory and related activities related to Atmos Energy Corporation. City Manager Michael Hornes

City Manager Hornes provided a summary. Discussion was held.

Mayor Pro Tem Jordan made a motion, seconded by Councilwoman Chivers, to approve **Resolution No. R-11-19** as presented. Upon vote, motion carried unanimously 7-0.

1) Consider acceptance of the Annual Audit for Fiscal Year 2017-2018. Auditor Frank Campos  
Frank Campos provided a recap of the financial audit. He informed that this year's report seeks to meet the content standards of excellence in municipal reporting. The City's financial condition improved from last year. The fund balance needs to increase. The City's overall financial condition is good; better than last year.

Mayor Pro Tem Jordan made a motion, seconded by Councilwoman Chivers, to accept the Annual Audit for Fiscal Year 2017-2018. Upon vote, motion carried unanimously 7-0.

- 2) Consider authorizing the City Manager to execute an agreement with ESEIS and BELFOR to perform remediation services for mold at the Palestine Public Library. Public Works Director Tim Perry

Public Works Director Tim Perry informed that on December 7th, mold was discovered on special collection books at the Library. ESEIS was contacted to evaluate and they found the mold. Public Works did seek out other bids. BELFOR is the one stop shop. There will be charges for all the services. BELFOR will perform the remediation. This needs to be dealt with quickly.

Library Director Holden and Library employee Karla Lang spoke regarding the historic antique materials. They informed that fifty percent of the damaged materials could be discarded.

Councilwoman Chivers made a motion, seconded by Councilwoman Loveless, to authorize the City Manager to execute an agreement with ESEIS and BELFOR to perform remediation services for mold at the Palestine Public Library; amount not to exceed \$79,000. Upon vote, motion carried unanimously 7-0.

- 3) Discuss and take any action necessary regarding the lease extension for East Texas Council of Governments for the Workforce Solutions office located within the Palestine Mall. City Manager Michael Hornes

Council held discussion. City Manager Hornes explained that ETCOG is asking for five, one-year options starting May 1st. If the mall is sold the City will offer a substitute space starting on third, fourth, and fifth year; and a fund out clause needs to be included in the lease.

Councilwoman Chivers made a motion, seconded by Mayor Pro Tem Jordan, to approve the lease extension as presented. Upon vote, motion carried unanimously 7-0.

- 4) Consider approval of the BMI Music License for Local Governmental Entities. Marketing Manager Mary Raum

Marketing Manager Raum provided staff comments. This license is necessary to play music publicly. Copyrights laws require music users to get permission from songwriters and composers who can charge a fee before their music is played publicly, which then allows them to continue to create music.

Councilwoman Goolsby made a motion, seconded by Councilwoman Connor, to approve the BMI Music License. Upon vote, motion carried unanimously 7-0.

- 5) Consider an ordinance granting an access easement from the City of Palestine to Sharon Sutton on Moody Street for the purpose of building a new home on land-locked parcel. Interim Development Services Director Mark Miears

Interim Development Services Director provided a summary.

Mayor Pro Tem Jordan made a motion, seconded by Councilwoman Loveless, to approve **Ordinance No. O-11-19**, granting an access easement. Upon vote, motion carried unanimously 7-0.

- 6) Discuss and take any action necessary regarding Code of Ethics for City Council. Councilwoman Dana Goolsby

Councilwoman Goolsby will make recommended changes and will present the revised policy at the next meeting.

- 7) Discuss and take any action necessary regarding the Safe Routes to School Grant from TxDOT. Mayor Steve Presley

Mayor Presley provided a summary. Safe Routes to School is a 100 percent federally funded cost-reimbursement program managed through the Texas Department of Transportation. This money could pay for bicycle lane improvements, shared-use paths, sidewalks, and other related projects to improve safety for pedestrians and cyclists. The deadline for preliminary applications is April 12th.

Councilwoman Chivers made a motion, seconded by Councilwoman Goolsby, allow City Staff to submit the application. Upon vote, motion carried unanimously 7-0.

- 8) Discuss and take any action necessary regarding the old Memorial Hospital site. Councilwoman Dana Goolsby

Councilwoman Goolsby explained that she wouldn't mind waiting and waiting with the Task Force being proposed. She added to slow down and not rush into anything.

Councilman Baxter made a motion, seconded by Councilwoman Chivers, to wait for six months, create a Task Force to help develop a plan working with Real Estate Committee and Council, and appoint members at the next meeting. Upon vote, motion carried unanimously 7-0.

**CLOSED SESSION**

Mayor Presley announced that Council would go into Closed Session pursuant to Section 551.071 to consult with interim city attorney to receive legal advice, including consultation regarding pending or contemplated litigation. The time was 7:41 p.m.

- 1) Discussion and update regarding *L. S. Equipment Co., Inc. d/b/a Lone Star Equipment Co. v. City of Palestine; Cause No. DCCV17-003-3*, in the 3<sup>rd</sup> District Court, Anderson County.
- 2) Discussion and update regarding *City of Palestine v. Jerry Laza, Cause No. DCCV 16-359-349, 349<sup>th</sup> District Court, Anderson County; and Jerry Laza v. City of Palestine, Cause No. 6:17-CV-00533-RWS* in the U.S. District Court, Eastern District of Texas.
- 3) Discussion and update regarding *McLane v. City of Palestine; Cause No. DCCV17-261-349*, in the 349<sup>th</sup> District Court, Anderson County.

**RECONVENE IN REGULAR SESSION**

Mayor Presley reconvened Council into open session at 8:14 p.m.

Mayor Pro Tem Jordan made a motion, seconded by Councilman Baxter, to appoint Attorney Jeff Herrington as attorney of record for the *L. S. Equipment Co., Inc. d/b/a Lone Star Equipment Co. v. City of Palestine; Cause No. DCCV17-003-3*. Upon vote, motion carried unanimously 7-0.

Councilman Baxter made a motion, seconded by Councilwoman Connor, to appoint Attorney James Hankins as attorney of record for the *City of Palestine v. Jerry Laza, Cause No. DCCV 16-359-349, 349<sup>th</sup> District Court, Anderson County; and Jerry Laza v. City of Palestine, Cause No. 6:17-CV-00533-RWS*. Upon vote, motion carried unanimously 7-0.

Councilwoman Goolsby made a motion, seconded by Councilman Baxter, to appoint Attorney Jeff Herrington as attorney of record for the *McLane v. City of Palestine; Cause No. DCCV17-261-349*. Upon vote, motion carried unanimously 7-0.

**ADJOURN**

With no other business to come before the Council, the meeting was adjourned at 8:16 p.m.

PASSED AND APPROVED THIS 13TH DAY OF MAY, 2019.

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Steve Presley, Mayor

ATTEST:

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Teresa Herrera, City Secretary