

**PALM VALLEY CITY COUNCIL
MINUTES
REGULAR MEETING
June 20, 2023**

The City Council of the City of Palm Valley met in a Regular Meeting on the 20th day of June 2023 at 6:00 p.m. at 1313 N. Stuart Place Road, Palm Valley, Texas. (ZOOM videoconferencing was available for the public).

Council members present:

Mayor Michael Galvan
Councilman Jerry Wade
Councilman Mike Vargas
Councilwoman Annette Baker
Councilman Scott Nelson

Via Zoom:

Councilman Gilberto Lucio

Present:

Jason Mann, City Attorney

Staff present (all in person):

City Secretary: Kathy J Cherry
Interim Chief A. Quintanilla
Rosendo Flores, Director of Public Works
Jose Rivera, Office Manager

1. **CALL TO ORDER** - The meeting was called to order by Mayor Michael Galvan.
2. **LEGISLATIVE PRAYER** - The Legislative Prayer was recited by Councilman Wade.
3. **PLEDGE OF ALLEGIANCE** - The Pledge of Allegiance followed led by Mayor Galvan.
4. **DISCUSSION AND POSSIBLE ACTION TO APPROVE THE MINUTES OF THE REGULAR MEETING OF APRIL 18, 2023, MAY 16, 2023, AND THE SPECIAL MEETING OF JUNE 1, 2023.**

There being no corrections, Councilwoman Baker made a motion to approve the minutes.

Councilman Nelson seconded the motion.

Mayor Galvan took the votes and the motion carried unanimously by those present.

5. DISCUSSION AND POSSIBLE ACTION TO APPROVE FERRIS & FLINN, LLC TO ADVERTISE REQUEST FOR BID (RFB) ON BEHALF OF THE CITY FOR THE GOLF COURSE STORM WATER SYSTEM IMPROVEMENT PROJECT.

Mayor Galvan explained that this is the continuation of the project that was approved over a year and a half ago. It is in cooperation with Drainage District #5, with a MOU in place, and that it is being funded with funds that were awarded to the City.

Antonio Reyna with Ferris, Flinn, & Medina, LLC. explained that the project consists of the removal of the 30" storm drain that is under the golf course drain ditch and replacing it with a concrete or concrete alternative aperture. Additionally, he explained that the alternative reaches the same compressive strength of concrete within 28 days of being applied, that it is a non-permeable material, and lasts as long as concrete according to the manufacturer.

Mayor Galvan explained that this is an alternative plan to the cement lining that was already approved by the Texas Water Development Board (TWDB). This alternative is being presented because of potential pushback from the community regarding the original project. This project is to ensure the flow of storm water flows through Palm Valley and does not stagnate within the City.

Councilwoman Baker asked if this alternative would have to be presented to TWDB again and Mr. Reyna stated that yes it would have to be presented but that they don't see issues with the alternative being approved, as it does the same functions as the original project.

Councilman Lucio asked if the whole project could be turned down if this alternative was not approved. Mayor Galvan stated that this is for requesting bids in order to get the pricing that will be presented to TWDB. Mr. Reyna also stated that if they don't approve the alternative, they could refer to the original project which has been approved already with the cement liner. Additionally, Drainage District #5 did an analysis of this material, and it performs the same as the concrete liner, so they don't foresee pushback on the alternative.

Councilman Nelson stated that the dates needed to be updated on the actual notices that will be sent out.

Councilman Vargas asked where this project was going to be implemented in. Mr. Reyna explained that it starts on the western side of Bougainvillea and cuts across the golf course towards Palm Valley Drive South. Additionally, the bridge that is on Palm Valley Drive South will be repaired to accommodate the bigger pipes that will run through and allow for the ease of water flow through there.

Councilman Wade asked what the request for bids will include and Mr. Reyna stated that the bids will be for the concrete liner, alternative liner, and fairway box that is being proposed.

Councilman Nelson made a motion to authorize the Ferris, Flinn, & Medina, LLC. to advertise RFB for the Golf Course Storm Water System Improvement Project with the updated advertising dates.

Councilman Wade seconded the motion.

Mayor Galvan took the votes and the motion carried unanimously by those present.

6. DISCUSSION AND POSSIBLE ACTION TO APPROVE A REQUEST FOR VARIANCE BY WM. J HARAWAY TO THE FENCE ORDINANCE AT 5001 FIESTA DR., PALM VALLEY.

Mr. Haraway explained that when the City closed Fiesta Dr. to install the pump house, there is no more cross traffic as it is now a dead end. Mr. Haraway states that the variance he is requesting is a 16ft extension past the front of his home to prevent wandering animals. Due to a ditch in his back yard limiting the space, Mr. Haraway wants to make his side yard his back yard. He states that since there is no traffic in the area, Mr. Haraway does not see how it could be offensive to the citizens of Palm Valley.

Mayor Galvan explains that the only reason the fence permit was denied initially was due to the fence ordinance stating that it could not extend past the front of the house.

Councilman Wade asks if it's going to be a 6'0 wooden fence that will be installed and Mr. Haraway confirms this.

Councilman Wade made a motion to approve the variance at 5001 Fiesta Dr. for the fence permit.

Councilman Vargas seconded the motion.

Mayor Galvan took the votes and the motion carried unanimously by those present.

7. DISCUSSION AND POSSIBLE ACTION TO APPROVE AN ETHICS ORDINANCE FOR THE CITY OF PALM VALLEY. FIRST READING.

Mayor Galvan explains that the ordinance was tailored based on different ethics ordinances across cities, including Harlingen's ethics ordinance.

Councilman Lucio asks if the City of Palm Valley has had an ethics ordinance before. Mayor Galvan states that the City has never had a similar ordinance that addresses it directly. There is a policy that governs the conduct of the employees but not that of the elected officials.

Councilwoman Baker stated that she thinks the ordinance is overreaching and broad. Councilman Lucio agreed, especially in the section regarding voicing opinions during City Council meetings because it could be interpreted in a way that would put somebody in violation for what was said or how it was said. Mayor Galvan stated that it was only for decorum purposes, specifically discourteous language being used, and it was not for specific opinions.

Jason Mann, City Attorney, commented that the ordinance as written labels the City Attorney as the one to file and process the accusations/complaints and that is not a role the City Attorney is engaged to do right now. He states that the ordinance is creating more of an officer role to file the written complaints to. If the ordinance is approved, the City would have to reengage the contract for the City Attorney to define that specific role.

Councilman Wade asks Mr. Mann if he had any additional comments on his reading of the ordinance. Jason Mann states that he didn't see a problem with the ordinance as written. He states that the ordinance captures in writing what exists in law and tries to clarify those statutes.

Councilwoman Baker reiterates that the ordinance is broad and overreaching. Using herself as an example, she states that under this ordinance, if a fellow councilmember would be selling their property, they would not be able to list with her. Mayor Galvan affirms that that is correct. Councilwoman Baker thinks that the ordinance leaves a lot of vagueness and does not like the specific verbiage being used. Mayor Galvan states that most of the verbiage is taken out of the Texas Local Government codes.

Councilman Lucio stated that the ordinance lays out certain things that should not be included, specifically that it doesn't lay out rules for decorum and only addresses it as "speech". He states that it should not limit the speech of City Council when conducting City business. Mayor Galvan states that this is the first reading of the ordinance and that the council input can be added. Councilwoman Baker suggests holding a special meeting similar to the budget workshop to discuss line by line the ordinance and Councilman Lucio agrees in order to compare how this ordinance is versus other cities.

Councilman Nelson asks what the process would be in adopting the ordinance. Jason Mann states a first and second reading of the ordinance are not required but is a good practice to do so.

No further discussion or action was taken.

8. PUBLIC COMMENTS

Edna Butler (5516 PVD North): Discussed about the Harlingen Country Club and the duties and responsibilities of the City Council. She was of the opinion that the HCC should depend less on the city and that the council should reevaluate their position as elected officials and their stance on the employment of certain individuals.

Candace Divin (709 Caro Cir): Discussed about the duties and responsibilities of the council and how as elected officials, they are there to protect the City from outside influences/threats that could become costly endeavors for the City. Additionally, she expressed support for Kathy Cherry and her employment with the City.

Larry Crow (1416 PVD East): Discussed about his support for Kathy Cherry and her employment with the city and urged the council to act professionally and with the welfare of the citizens in mind.

John Topp (701 PVD West): Addressed the council about the potential liability of the sale of a city vehicle without going to public channels and how the vehicle still retains the government exempt license plates.

9. DISCUSSION AND POSSIBLE ACTION TO APPROVE AMENDMENTS TO THE PARK AND RECREATION BOARD ORDINANCE

Councilwoman Baker asks what the new sections of the revised ordinance are and also about the 3-year long appointments for the board members. Jason Mann explains that the intent is to have an overlap so that there are no gaps in appointment between when new city council members are elected and when parks and rec board members appointments end. Additionally, the numbering system of the draft ordinance will be updated to fit within the numbering system present in the Palm Valley Code of Ordinances.

Councilwoman Baker also asks about the number of appointments and the total number of members in the board. Councilman Lucio states that it is one appointment for each council member and that the board is smaller than before. Councilwoman Baker asks if once the council members term expires does the park board appointment expire too and it is answered that that is correct. Jason Mann explains that the changes are to provide continuity between reappointments. Councilman Lucio asks when those appointments would apply and Mayor Galvan answers that it would apply once the ordinance gets amended. Jason Mann also presented different alternatives to when the appointment process becomes effective to fill the board currently.

Councilman Nelson made a motion to approve the amendments to the Park and Recreation board ordinance and replace the numbers as appropriate.

Councilman Wade seconded the motion.

Mayor Galvan took the votes and the motion carried unanimously by those present.

10. DISCUSSION AND POSSIBLE TO REMOVE, APPOINT, OR REAPPOINT MEMBERS TO THE PARK AND RECREATION BOARD FOR THE PLACES AND TERMS

Councilman Nelson stated his concern for appointments regarding terms expiring at the same time. It was stated that the overlap is there to prevent such issues. Additionally, he stated that Julie Herrington is the only member of the Parks and Recreation board currently.

Councilwoman Baker nominated Perla Galvan for her appointment. She stated she had spoken to her previously and asked for her interest in the position and that Perla Galvan was willing to accept the appointment.

Councilman Wade mentioned since there is not a complete board currently, that City Council and staff would help plan and organize the upcoming 4th of July event.

Councilwoman Baker made a motion to appoint Perla Galvan to place 1 on the Parks and Recreation Board.

Councilman Wade seconded the motion.

Mayor Galvan took the votes and the motion carried unanimously by those present.

Mayor Galvan appointed Julie Herrington for the Parks and Recreation board. Discussion ensued whether it was necessary to make motions for the appointments of the board members. Jason Mann clarified that since they are individual appointments from each City Council member, that a motion is not required, so long as the individual meets all the requirements for serving on the board.

Councilwoman Baker made a motion to table and revisit the appointment of board members to the parks and recreation board.

Councilman Nelson seconded the motion.

Mayor Galvan took the votes and the motion carried unanimously by those present.

11. DISCUSSION AND POSSIBLE ACTION TO APPROVE THE 4TH OF JULY PARADE AND ENTERTAINMENT TO BE HELD AT THE HARLINGEN COUNTRY CLUB PARKING LOT TENTATIVELY ON JULY 2, 2023.

Councilwoman Baker started the discussion by mentioning that there are only two current board members on the Parks and Recreation board. Jason Mann stated that the City Council members are also member of the parks board due to exofficio status.

Mayor Galvan stated that usually the 4th of July event is a parade around the city and that the previously used venue is the Harlingen Country Club parking lot. A budget from previous years was presented, however some items have already been done or paid for.

Councilwoman Baker mentioned that in previous events, City Council has donated or contributed to them saving the City some financial costs. She elaborates that under the new ethics ordinance, City Council would not be able to do so anymore. Mayor Galvan replies that in some places it is equivalent to buying votes.

Jason Mann asks about the approval for the Parks budget. It is stated that the budget presented is part of the approved budget for the fiscal year.

Mayor Galvan states that some coordination is needed to see the availability of the venue for that day. Additionally, he mentions that the Harlingen Country Club is doing an event on the 4th of July and asked whether it was going to be a joint event. Mayor Galvan thinks that the City should have its own separate event.

Councilman Lucio states that he doesn't have a problem with having a joint event as long as it is made clear that the event is open to all Palm Valley residents and not just HCC members.

Discussion was brought up regarding the feasibility of hosting events under the ethics ordinance if it was approved. Mayor Galvan states that it is not uncommon for a City to use a parking lot of a local business to host events.

Discussion was made regarding the specific date the event would be held and whether it was going to be made jointly with HCC. Councilman Wade states that he thinks it would be better to combine the parade and HCC event on the 4th of July. Councilwoman Baker agrees that the event should be on the actual day of the holiday and not held on the 2nd.

Councilman Wade made a motion to approach the HCC and partner up with them to hold the 4th of July Parade at the HCC parking lot.

Councilwoman Baker seconded the motion.

Mayor Galvan took the votes and the motion carried unanimously by those present.

12. DISCUSSION AND POSSIBLE ACTION TO APPROVE A BUDGET FOR THE JULY 4TH PARADE AND ENTERTAINMENT FOR THE PARK AND RECREATION BOARD.

Mayor Galvan states that the budget has already been approved before by City Council. No further discussion was made.

13. DISCUSSION AND POSSIBLE ACTION TO AMEND SECTION 150.133 PAVED OFF STREET PARKING OF THE BUILDING AND CONSTRUCTION ORDINANCE.

Mayor Galvan stated that this item was brought to his attention due to issues within the City. He states that certain residents have walled off their garages affecting the surrounding properties values and that a construction company is arguing about the sizing requirements in the current ordinance.

Councilwoman Baker asks about the residents that have already enclosed their garages. Mayor Galvan states that the City cannot do anything about those properties until they have to put in repairs or new construction which would have to comply with the new requirements. Jason Mann states that somebody could enclose their garage, so long as a replacement that falls within the requirements is made.

Councilwoman Baker asks about the sizing requirement of 2 car garages and how it affects the multi-family properties. Mayor Galvan states that those structures are already in place and that almost every single-family residence has already a 2-car garage.

Additionally, Councilwoman Baker asks what the negatives of not approving the ordinance would be. Mayor Galvan answers that it would allow for 1 car garages which devalue property values.

Jason Mann explained that this amendment would not affect the multi-family free standing carports, as they are not attached garages to a residence.

Councilwoman Baker asked about golf carts and their feasibility in the garages. Jason Mann stated that it is a square footage issue and so long as that requirement is met, it can be used for golf cart storage.

Councilman Wade made a motion to amend section 150.133 concerning paved off street parking of the building and construction ordinance about size of the garages.

Councilman Nelson seconded the motion.

Mayor Galvan took the votes and the motion carried unanimously by those present.

14. EXECUTIVE SESSION

1. PURSUANT OF TEXAS GOVERNMENT CODE 551.074 TO DELIBERATE THE APPOINTMENT, EMPLOYMENT, EVALUATION, REASSIGNMENT, DUTIES, DISCIPLINE, OR DISMISSAL OF A PUBLIC OFFICER, OR EMPLOYEE, INTERIM CHIEF OF POLICE, OR A CHIEF OF POLICE.
2. PURSUANT OF TEXAS GOVERNMENT CODE 551.074 TO DELIBERATE THE APPOINTMENT, EMPLOYMENT, EVALUATION, CONTRACTUAL ISSUES, REASSIGNMENT, DUTIES, DISCIPLINE, OR DISMISSAL OF A PUBLIC OFFICER, OR EMPLOYEE, THE CITY SECRETARY.
3. PURSUANT OF TEXAS GOVERNMENT CODE 551.074 TO DELIBERATE THE APPOINTMENT, EMPLOYMENT, EVALUATION, REASSIGNMENT, DUTIES, DISCIPLINE, OR DISMISSAL OF A PUBLIC OFFICER, OR EMPLOYEE, THE CITY ATTORNEY.
4. CONSULTATION WITH CITY ATTORNEY PURSUANT TO TEXAS GOVERNMENT CODE 551.074 TO DISCUSS EMERGENCY FLEET VEHICLE AND AN UNAUTHORIZED CONTRACT.

Councilman Wade made a motion to go into Executive Session.

Councilman Nelson seconded the motion.

Mayor Galvan took the votes and the motion carried unanimously by those present.

The Executive Session convened at 6:56 p.m. and concluded at 7:57 p.m. with no action taken in closed session.

15. DISCUSSION AND POSSIBLE ACTION ON EXECUTIVE SESSION AGENDA ITEMS 1-4.

Item 1:

Councilman Nelson made a motion to post the position of Palm Valley Police Chief and accept applications.

Councilman Wade seconded the motion.

Mayor Galvan took the votes and the motion was denied by the following votes:

Aye: Nelson, Wade

Nay: Baker, Lucio, Vargas

Councilwoman Baker made a motion to continue the previous council actions of keeping the current Interim Chief of Police contingent on that he finishes the requirements for Police Chief.

Councilman Lucio seconded the motion.

Mayor Galvan took the votes and the motion carried unanimously by those present.

Item 2:

Councilman Wade made a motion to accept the resignation of Kathy Cherry as City Secretary effective immediately.

Councilman Nelson seconded the motion.

Mayor Galvan took the votes and the motion carried by the following vote:

Aye: Wade, Nelson, Lucio, Vargas

Abstain: Baker

Item 3:

No action taken.

Item 4:

No action taken.

16. DISCUSSION (ONLY) ON PLANNING AND ZONING BOARD ORDINANCE AND APPOINTEES.

Mayor Galvan stated that the ordinance needs to be updated and there are members of the board with expired terms. The intent is to have appointees on the board chosen by individual council members, similar to the Parks and Recreation board ordinance.

Councilwoman Baker asks what the Planning and Zoning board do because we are not developing or building. Jason Mann explains that the board oversees zoning the land which specifies what it can be used for, not to be confused with variances to the ordinances. Additionally, they handle the adjustment to a specific zone instead of the regular variance procedure. He also mentions that it has been an issue in the past regarding who the acting body of the planning and zoning board are.

Councilwoman Baker asks if the number of current members are required. Jason Mann states that the ordinance as written right now does require that number, but it can be amended to model the Parks and Rec board ordinance.

Councilman Nelson asks if there are any immediate needs for the board to convene. The city attorney explains that they have a once-a-year meeting, and they meet as needed.

17. CONSENT AGENDA:
- A. Police Monthly Report- May 2023
 - B. Municipal Court Monthly Report- May 2023
 - C. Monthly Investment Report- May 2023
 - D. Monthly Financial Report (Budget) - May 2023
 - E. Monthly Check Listing- May 2023
 - F. Council/Staff liaison report

Interim Chief of Police Quintanilla explains that the police department has created the Stonebraker checklist, which is designed to help those residents that live alone and may require assistance. Councilman Nelson comments that his mother-in-law is on the list and appreciated the checkups PVPD has been providing.


Waterworks Supervisor Rosendo Flores states that some residents might be experiencing low water pressure due to the water pumps being shut off. This action was taken regarding the water loss that is being experienced and with the pumps being shut off water loss was reduced by 20%. He also explains that no City water is used to irrigate the golf course in response to a question from the audience. Additionally, he urges the residents to report any wet spots, water leaks, or big green spots that might indicate where the water is going.

Councilman Wade made a motion to approve the consent agenda.

Councilman Nelson seconded the motion.

Mayor Galvan took the votes and the motion carried unanimously by those present.

There being no further business, the meeting adjourned at 8:10 p.m. upon a motion by Councilwoman Baker and a second by Councilman Vargas.



Michael Galvan, Mayor

Attest:



Jose Luis Rivera Jr., Office Manager