

**PALM VALLEY CITY COUNCIL
MINUTES
REGULAR MEETING
July 20, 2021**

The City Council of the City of Palm Valley met in a Regular Meeting on the 20th day of July 2021 at 6:00 p.m. at 1313 N. Stuart Place Road, Palm Valley, Texas. Council members attended in person. (ZOOM videoconferencing was available for the public).

Council members present.

Mayor George Rivera

Councilman Michael Galvan

Councilman Jerry Wade

Councilman Eric Hoff

Councilwoman Cynthia Thompson

Present via ZOOM:

Councilwoman Lisa Taylor

Jason Mann, City Attorney

Staff present (in person):

Sylvia R. Trevino, City Secretary

Chief Alvaro Garcia

Rosendo Flores, Public Works Director

Elsa Guajardo, Support Services Aide

1. **CALL TO ORDER** - The meeting was called to order by Mayor Rivera.
2. **PLEDGE OF ALLEGIANCE** - The Pledge of Allegiance followed led by Mayor Rivera.
3. **LEGISLATIVE PRAYER – Mayor George Rivera.**
4. **PUBLIC COMMENTS:**
5. **MINUTES FOR APPROVAL – REGULAR MEETING OF JUNE 15, 2021**

Councilwoman Thompson pointed out a correction on Page 2, Paragraph 2 to change TDWB to TWDB and on Page 3, 2nd line to reflect “COs”.

With the noted corrections, Councilman Wade made a motion to approve them.

Councilwoman Thompson seconded the motion.

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

6. **RESOLUTION APPROVED AUTHORIZING THE EXECUTION OF AN INTERLOCAL AGREEMENT AND A TEMPORARY EASEMENT WITH CAMERON COUNTY DRAINAGE DISTRICT NO. 5; AUTHORIZING THE EXECUTION OF AN EASEMENT AGREEMENT WITH HARLINGEN COUNTRY CLUB; AND OTHER MATTERS IN CONNECTION THEREWITH.**

Don Gonzalez, bond counsel, explained that the Texas Water Development Board introduced this new program to provide 0% loans and grants for flood control, flood mitigation and drainage

projects. Not all cities get both the loan and the grant. Palm Valley applied to the TWDB FIF program and received funding of \$1,417,922 (\$1,347,000 loan & \$70,922 grant). All loan funds must be drawn before grant funds are drawn. Cameron County Drainage District #5 is the counterpart to this funding. It will be up to them to transfer the funds and send to the City two weeks prior before the annual payment is due and the City will then wire the funds to TWDB. The City is only committed to pledging ad valorem taxes for repayment of the 0% loan.

Matt Lee, bond counsel, added that the Drainage District signed the interlocal agreement and the City's Attorney, Jason Mann, will record and file the required documents. The easement agreement authorizes the City to go onto the property. Jason Mann commented that he has reviewed the agreements and he approves.

Councilman Wade asked if the easement agreement is effective only during the construction of the drainage project. Mayor Rivera replied that the easement is with the Drainage District but because the City is the issuer, they must grant the City the permission to enter the property.

Councilman Hoff made a motion to approve the resolution authorizing the execution of the interlocal agreement and a temporary easement with Cameron County Drainage District #5 and authorizing the execution of an easement agreement with Harlingen Country Club.

Councilman Galvan seconded the motion.

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

7. RESOLUTION APPROVED APPROVING A GRANT AGREEMENT IN THE AMOUNT OF \$70,922 AND AN ESCROW AGREEMENT RELATING THERETO; AUTHORIZING THE MAYOR AND CITY SECRETARY, OR THEIR DESIGNEES, TO EXECUTE ANY AND ALL DOCUMENTS RELATED THERETO; AND OTHER MATTERS IN CONNECTION THEREWITH.

Don Gonzalez continued to explain that one of the requirements of the Texas Water Development Board is that the loan funds be drawn down first and then the grant funds. There is no need to obtain any kind of bond rating and these funds are taxable.

Councilman Wade asked what if the bidding of the project comes in less. Mr. Gonzalez replied that TDWB will not release the balance of the funds. If the project is over, the City will be responsible. The debt has an annual payment of \$45,000 that will need to be submitted two weeks prior to the bond payment date. There is no impact to the City's utility system nor to the ad valorem tax rate. This is a 'win-win' situation.

Councilman Hoff asked if there would be an instance where the interlocal agreement would not be in place. Mr. Lee replied that the agreement is tied to the loan and not to the construction. There would be a violation of the agreement if the Drainage District backed out. The City would then have legal recourses to follow.

Councilwoman Thompson made a motion to approve the resolution approving a grant agreement in the amount of \$70,922 and an escrow agreement relating thereto authorizing the Mayor and City Secretary or their designees, to execute all documents related thereto, and other matters in connection therewith.

Councilman Hoff seconded the motion.

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

8. ORDINANCE ADOPTED AUTHORIZING THE ISSUANCE OF CITY OF PALM VALLEY TEXAS COMBINATION TAX AND SUBORDINANCE LIEN REVENUE CERTIFICATES OF OBLIGATION, TAXABLE SERIES 2021; PROVIDING FOR THE PAYMENT OF SAID CERTIFICATES BY THE LEVY OF AN AD VALOREM TAX UPON ALL TAXABLE PROPERTY WITHIN THE CITY AND FURTHER SECURING SAID CERTIFICATES BY A SUBORDINANCE AND INFERIOR LIEN ON AND PLEDGE OF THE PLEDGED REVENUES OF THE SYSTEM; AUTHORIZING THE EXECUTION OF ANY NECESSARY ENGAGEMENT AGREEMENT WITH THE CITY'S FINANCIAL ADVISORS; AND OTHER MATTERS INCIDENT AND RELATED THERETO.

Mayor Rivera, because some people have expressed concern that liens will be placed on their properties, asked, once again – will liens be placed on properties in Palm Valley?
Matt Lee replied no. The City will repay the loan through payment from the Drainage District. The tax rate is sufficient to repay the debt.

Councilwoman Taylor made a motion to adopt the ordinance authorizing the issuance of City of Palm Valley, Texas combination tax and subordination lien revenue certificates of obligation, taxable series 2021; providing for the payment of said certificates by the levy of an ad valorem tax upon all taxable property within the city and further securing said certificates by a subordination and inferior lien on and the pledged revenues of the system; authorizing the execution of any necessary engagement agreement with the city's financial advisors; and other matters incident and related thereto.

Councilman Galvan seconded the motion.

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

9. NO ACTION TAKEN ON ALLEGED ORDINANCE VIOLATIONS AT 5100 PAPAYA CIRCLE – PROPERTY OWNERS: MIKE AND WENDY BULLOCK

Matt Gorges, a resident on Papaya Circle, was present to petition that the City enforce the continuing violations of city ordinances at his next door neighbor's home located at 5100 Papaya Circle. Mr. Gorges alleged that the Bullocks are operating an active business on the property outside of the house and they have more than one attached structure, in this case three, in the yard which are above the fence limit.

Mr. Gorges commented that he is not suggesting that the Bullocks be penalized for the violations although the ordinance does allow for it. He read an excerpt from the ordinance regarding land usage and home occupations. Mr. Gorges stated that Ms. Bullock is a golf teacher and has been offering golf lessons from her home. She has since stopped and is now teaching at the Stuart Place Country Club. The second issue he referred to was that the Council can grant a special use permit, but the use shall not adversely affect property values.

Mr. Gorges explained that there are buildings in the backyard that adversely affect property values. There is a golf net that is 15 ft. high and can be seen over the fence. His concern is that the Bullocks are converting their backyard use for golf. During the four-month period, Mr. Gorges stated that no one was policing the operations although he did call the Police Department and was told to contact Cameron County because the County responds to complaints from Palm Valley. He added that the net should come down. Mr. Gorges continued to explain that there is a second building which is illegal. The Bullocks must comply as should other residents. They cannot operate a business outside the home. These are things that cause property values to decrease.

Mayor Rivera summarized the complaints as being: 1) commercial business outside the home; 2) structure in the back is not in compliance with the City ordinance.

Councilman Hoff stated that he spoke with all the parties involved and the issue would be a violation only if it is a home occupation.

Mike Bullock explained that Mr. Gorges had sold them 1/2 acre and they immediately put up the net and in 2006 they put in a tool shed. The treehouse was put in about 12-15 years ago. It is an entertainment area now with a screening porch connected by a walkway. He added that he has no problem taking down the steel shed. They were not aware of the ordinances that the City enforces. He apologized for any violations. He stated that the club racks are gone and there is a screened porch around the tree. He emphasized that they are not operating a business from the home.

Jason Mann, City Attorney, added that as far as the alleged violations the issue with the home business has been addressed. As for the net/structure----what he sees is an outdoor tool shed modified without a permit. If a new permit is requested, the permit fees would double. As for the outdoor canopy being a violation, a permit should be pulled, and a concrete foundation should be added to make it compatible with the main residence. What is around the tree is not a treehouse but an accessory building now. It should have a foundation and a permit pulled. If it is an accessory building now you have two buildings. There are health and safety issues, and the noise ordinance would also come into play. As for the net, he would question whether this violates any ordinance but only if there was a business being operated from the home.

The City Inspector has the right to inspect and issue citations as appropriate if there is a violation and the City Council could go to District Court and obtain a restraining order. The question is what is the structure around the tree?

Further discussion followed on whether it is a treehouse or an accessory building pointing out that two accessory buildings is a violation of the building regulations. Additionally, no permits were pulled. The question is what is a structure and what is a building? There was some confusion on how to enforce the ordinance if the treehouse is not a treehouse or whether it is an accessory building. The nature of the structure has changed. This structure does not have as cement foundation.

Mr. Bullock explained that the tree house was removed, and a new structure was built during the time that there was a moratorium on permits. Mayor Rivera stated that the moratorium was on the fees only and not on the permits.

From Mayor Rivera's understanding there are one too many buildings and he understands that the issue with the net cannot be enforced----it could be a noise issue, a nuisance, or a visual issue. Can anything be enforced as it relates to the net?

City Attorney Jason Mann commented that if it is a nuisance or there is an obnoxious use the issue gets turned over to the Police Department. An official complaint would have to be filed

Mayor Rivera concluded that there are too many buildings in the back of the property. One needs to be removed unless Mr. Bullock pulls a permit that meets the ordinance requirements. The treehouse will need to be compliant. It cannot have a wooden floor.

Jason Mann stated that both buildings were done without a permit, therefore, the Building Inspector was not called in for an inspection. You have two structures that are non-compliant: the tool shed which is not on a concrete foundation and the treehouse which does not have a foundation. The Bullocks need to realize that they cannot pull a permit retroactively for what they are planning to do. Otherwise, the city's remedy would be to penalize them.

Matt Gorges again emphasized that the violations adversely affect the comprehensive plan that the City of Palm Valley implemented back when it first got developed.

Mayor Rivera again stated that in summary, Mr. Bullock has two buildings: one must come down, whichever one he chooses; and one must be modified to comply with the ordinance requirements. And, unless someone officially complains about the noise, there is nothing the city can do about it. Jason Mann added that it is not only the noise but a possible health and safety issue.

Mayor Rivera pointed out the height of the net is about the same as a jungle gym that are in some yards. The height is not the issue but more of a health and safety and appearance issue.

Jason Mann suggested that the Building Inspector go out and look at the structure and then issue the necessary permit. The net issue would be a Police matter if a complaint is submitted.

Councilwoman Thompson questioned the remarks made by Mr. Gorges as to why Palm Valley PD would refer him to make his complaint to the County instead of Palm Valley PD.

Chief Garcia explained that this was hard to believe. All officers that worked the day shift were asked to monitor the traffic and noise at that residence and they never observed a violation. He stated that no one had ever made an official complaint to the Police Department. He stated that logs are kept dependent on what the complaint is and there is no documentation on records for this address.

Finalizing the discussion, Mayor Rivera stated that the building Inspector would be sent to the residence and discuss what will follow. As for the net, the City can only wait for an official complaint to be submitted.

Councilwoman Taylor clarified that the number of cars that can be parked outside a home is not the determining factor as to violation of the ordinance regarding operating a business out of your home; it has to do with the number of vehicle trips coming and going and not the number of cars that are parked.

There was no action taken on this item.

10. ORDINANCE ADOPTED APPROVING A NEGOTIATED RESOLUTION BETWEEN THE CITY OF PALM VALLEY AND TEXAS GAS SERVICE REGARDING THE COMPANY'S APRIL 29, 2021 COST OF SERVICE ADJUSTMENT ('COSA') AND OTHER RELATED PROVISIONS

Councilwoman Thompson made a motion to adopt the ordinance.

Councilman Wade seconded the motion.

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

11. CONSENT AGENDA:

A. RESOLUTION APPROVED TO DESIGNATE BY OFFICIAL ACITON, AN OFFICER OR EMPLOYEE TO CALCULATE THE NO-NEW-REVENUE AND THE VOTER-APPROVAL TA RATES FOR THE CITY OF PALM VALLEY.

B. ORDINANCE ADOPTED ADJUSTING THE BUDGET FOR FISCAL YEAR 2020-21 TO ACCOUNT FOR THE FOLLOWING:

1. Computer Programmer
2. Police Department payroll
3. Miscellaneous – Administration
4. New line items (water): water distribution/wastewater; South Ditch Drainage improvements; stormwater drainage.

C. Police Monthly Report – June 2021

D. Municipal Court Monthly Report – June 2021

E. Monthly Investment Report – June 2021

F. Monthly Financial Report – June 2021

G. Monthly Check Listings – June 2021

H. Council/staff liaison reports

Councilman Hoff made a motion to approve the Consent Agenda.

Councilwoman Thompson seconded the motion.

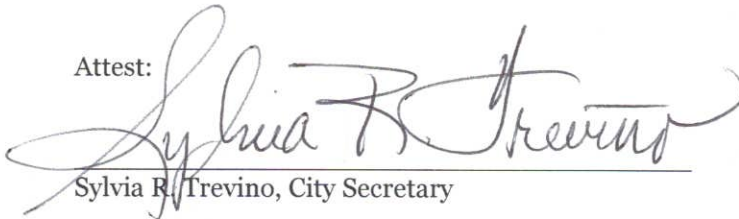
Mayor Rivera took the votes and the motion carried unanimously by those present.

There being no further business, the meeting adjourned at 7:36 p.m. upon a motion by Councilman Hoff and a second by Councilwoman Thompson.



George Rivera, Mayor

Attest:



Sylvia R. Trevino, City Secretary