



GLEN SMITH – Mayor
 JOHNNY TRAN – Councilmember Place 1
 JUDY CHAVEZ – Councilmember Place 2
 MARY CROCKER – Councilmember Place 3
 WAYNE DODD – Councilmember Place 4
 ANDY ERDELT – Councilmember Place 5
 STEPHEN MCGOVERN – Councilmember Place 6

CITY OF PALACIOS CITY COUNCIL REGULAR MEETING AGENDA

Notice is hereby given of a Public Hearing at the Regular Council Meeting of the Palacios City Council to be held October 11, 2016, beginning at 7:00 p.m. in the Council Chambers of City Hall, 311 Henderson Avenue, Palacios, TX, for the purpose of considering the following items:

REGULAR COUNCIL MEETING

CALL TO ORDER

INVOCATION – Councilmember McGovern

PLEDGE OF ALLEGIANCE – Mayor Smith

PLEDGE TO TEXAS FLAG – Mayor Smith

PLEDGE TO PALACIOS FLAG – Mayor Smith

VISITOR / CITIZEN FORUM

ADMINISTRATIVE REPORTS

1. Bay Fest Recap
2. 9th Street Reconstruction Update
3. National Night Out Recap
4. Harvest Moon October 22
5. Pedal Palacios October 29
6. Monstrous 5k By The Bay October 16th 7 PM
7. New Public Works Director

ITEMS TO BE CONSIDERED

1. Discuss and consider the 2015 CDBG Water Improvements Change Order No.1
2. Discuss and consider adopting Resolution 2016-R-21 awarding the contract for engineering services for the 2016 FEMA Hazard Mitigation Fund.
3. Discuss and consider accepting amendments to the Junkyard Ordinance 2016-O-8.
4. Discuss and consider accepting amendments to the Nuisance Ordinance 2016-O-9.
5. Discuss and consider reappointing Patricia Loving to the Planning & Zoning Commission for 2-year term.
6. Discuss and consider action to approve the following consent agenda items:
 - a) Minutes of the September 27, 2016 Regular Council Meeting

EXECUTIVE SESSION

In accordance with Chapter 551, Government Code, (Open Meetings Law) the Council
May go into Executive (closed) session in order to:

Consult with its attorney (551.071)

Discuss Real Estate transaction (551.072)

Deliberation regarding prospective gifts or donation (551.073)

Discuss personnel matters (551.074)

A. Discuss and review City Manager's Performance Annual Evaluation

Deliberation regarding security devices (551.076)

Discuss economic development negotiations (551.087)

ACTION ON EXECUTIVE SESSION:

A.) City Manager's Annual Performance Evaluation

ADJOURN

In compliance with the Americans with Disabilities Act, the City of Palacios will provide for reasonable accommodations for persons attending public meetings. To better serve attendees, requests should be received 24 hours prior to the meeting. Please contact City Hall, at 361.972.3605.

CERTIFICATION

I certify that a copy of the October 11, 2016 agenda of items to be considered by the City Council was posted on the City Hall bulletin board by 5:00p.m. on October 7, 2016.

REGULAR COUNCIL MEETING

CALL TO ORDER

INVOCATION –Councilmember McGovern

PLEDGE OF ALLEGIANCE – Mayor Smith

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1. Discuss and consider the 2015 CDBG Water Improvements Change Order No.1



Construction Contract Change Order

A505

Grant Recipient: City of Palacios Select: City County
 Contract No.: 7215359 Change Order No.: 1 Region: HGAC

Contractor:

(Name and Address)
 Lester Contracting, Inc.
 P. O. Box 986
 Port Lavaca, Texas 77979

Engineer:

(Name and Address)
 Urban Engineering
 2004 N. Commerce
 Victoria, Texas 77901-5510

Select Change Order Type(s): Change to Existing Line Items New Items Requested Change in Contract Duration

Grant recipient is requesting Texas Department of Agriculture review to determine eligibility of change order expenses.

Changes to Existing Line Items (Items from original bid or added in previous change order ONLY)

Bid Item #	Item Description	Original Qty.	Proposed Qty.	UOM	Unit Price	Δ Qty.	Change in Contract Price	+
5.	Water Main(6")(PVC)(Non-Paved)	1,172	1,863	LF	\$20.00	691	\$13,820.00	-
6.	Water Main (6") (PVC) (Gravel)	326	368	LF	\$23.00	42	\$966.00	-
7.	Water Main (6") (PVC) (HMAC)	147	342	LF	\$33.00	195	\$6,435.00	-
8.	Water Main (6") (PVC) (Concrete)	53	76	LF	\$35.00	23	\$805.00	-
9.	Water Main(8")(PVC)(Non-Paved)	685	1,061	LF	\$22.00	376	\$8,272.00	-
13.	Fitting (Tee) (6" x 6")	4	6	EA	\$375.00	2	\$750.00	-
18.	Gate Valve (6")	11	15	EA	\$950.00	4	\$3,800.00	-
19.	Gate Valve (8")	4	6	EA	\$1,250.00	2	\$2,500.00	-
20.	Locate & Connect to Exist WL (6")	1	2	EA	\$750.00	1	\$750.00	-
21.	Fire Hydrant (All Depths)	7	9	EA	\$2,950.00	2	\$5,900.00	-
22.	Remove Exist FH & Plug FH Lead	3	5	EA	\$500.00	2	\$1,000.00	-
23.	Reconnect Exist Services (Short)	22	33	EA	\$475.00	11	\$5,225.00	-
24.	Reconnect Exist Services (Long)	18	25	EA	\$1,025.00	7	\$7,175.00	-
A9.	Locate & Connect to Exist WL (8")	2	3	EA	\$820.00	1	\$820.00	-
B5.	Fitting (Plug) (4")	1	2	EA	\$200.00	1	\$200.00	-
Contract Change Sub-Total:							\$58,418.00	

New Items Requested (Items WITHOUT a unit price in the original bid)

Provide explanation below (attach separate documentation as appropriate).

Bids came in under budget, so the City would like to extend the water line down Morton (3rd to 1st) and 6th Street (Morton to Welch).

Bid Item #	Item Description	Original Qty.	Proposed Qty.	UOM	Unit Price	Δ Qty.	Change in Contract Price	+
13a.	Fitting (Tee) (6" x 6") (Cut-In)	0	1	EA	\$1,500.00	1	\$1,500.00	-
13b.	Fitting (Tee) (8" x 8") (Cut-In)	0	1	EA	\$1,650.00	1	\$1,650.00	-
Contract New Item Sub-Total:							\$3,150.00	

Change in Contract Duration

Provide explanation below (attach separate documentation as necessary).

Additional days added to the contract time to accomplish the additional work in the change order.

Original Contract End Date:

Net change of previous Change Orders (days):

Increase/Decrease of this Change Order (days):

Change Order Contract End Date

Justification for Change

	Increase	Decrease	No Change
1. Effect of this change on scope of work:	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Effect on operation and maintenance costs:	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Yes	No	Not Applicable
3. Will this Change Order change the number of beneficiaries or TxCDBG contract Performance Statement Exhibit A?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Please attach TxCDBG contract Performance Statement modification request with this Change Order.			
4. Has this change created new circumstances or environmental conditions which may affect the project's impact, such as concealed or unexpected conditions discovered during actual construction?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Is the TCEQ clearance still valid?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Are other TxCDBG contractual special condition clearances still valid?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. If new items are included that were not included in the competitive bid, have the prices been determined to be reasonable?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Change Order Summary

Original Contract Price:	<input type="text" value="\$251,162.00"/>	Original Contract End Date:	<input type="text" value="11/29/2016"/>
Net Previous Change Order(s):	<input type="text" value="\$0.00"/>	Net change of previous Change Orders (days):	<input type="text" value="0"/>
This Net Change Order:	<input type="text" value="\$61,568.00"/>	Increase/Decrease of this Change Order (days):	<input type="text" value="45"/>
New Contract Price:	<input type="text" value="\$312,730.00"/>	Change Order Contract End Date	<input type="text" value="1/13/2017"/>
Cumulative % Change:	<input type="text" value="24.513%"/>		

NOTE: Change orders for an increase of more than 25% will be rejected. The State of Texas considers a change in the construction contract price of greater than 25% to be non-competitive, as other potential bidders did not have the opportunity to bid on the true scope of the project during the procurement process. Grant Recipient must rebid project in the event of an increase of 25% or more.

Grant Recipient Approval (REQUIRED)

This change order is greater than \$50,000, by signing, the above signature represents evidence that approval from the governing body has been obtained by the City. See Local Govt. C., §252.048 [city] or §262.031 [county].

<input type="text"/>	<input type="text"/>
Authorized Signature	Date

Glen Smith, Mayor
Authorized Signatory's Name and Title

Engineer's Recommendation

	<input type="text" value="9/29/16"/>
Engineer's Signature	Date

Matt A. Glaze, P.E.
Engineer's Name

Contractor's Authorization (REQUIRED)

<input type="text"/>	<input type="text"/>
Contractor's Signature	Date

Ken Lester, Jr., President
Contractor's Name and Title

To receive an email copy of the TDA response, provide contact information below

Name	Email	+
David Kocurek, City Manager, City of Palacios	dkocurek@cityofpalacios.org	-
Ken Lester, Jr., President, Lester Contracting, Inc.	ken@lestercontracting.com	-
Caley Carmichael, CD Project Manager, GrantWorks, Inc.	caley@grantworks.net	-
Matt A. Glaze, P.E., Project Engineer, Urban Engineering	mglaze@urbanvictoria.com	-

For TDA office use only

This Net Change Order:	<input type="text" value="\$61,568.00"/>	Increase/decrease of this Change Order (days):	<input type="text" value="45"/>
Net Change Order Approved:	<input type="text"/>	Increase/decrease of this Change Order Approved:	<input type="text"/>
Approved Contract Amount:	<input type="text"/>	Approved Contract Time:	<input type="text"/>

Notes:

Contract Specialist Signature

Date

Director Signature (optional)

Date

RESOLUTION 2016-R-21

A RESOLUTION OF THE CITY OF PALACIOS, TEXAS, AUTHORIZING THE AWARD OF PROFESSIONAL SERVICE PROVIDER CONTRACTS FOR THE 2016 FEMA HAZARD MITIGATION FUND.

WHEREAS, the anticipated award of a 2016 Fema Hazard Mitigation contract requires implementation by professionals experienced in the engineering of federally-funded community development projects;

WHEREAS, in order to identify qualified and responsive providers for these services a Request for Proposals a Request for Qualifications (RFQ) for engineering services has been completed in accordance with the Fema Hazard Mitigation requirements;

WHEREAS, the submissions received by the due date have been scored to determine the most qualified and responsive providers for each professional service;

NOW, THEREFORE, BE IT RESOLVED:

Section 1A. That _____ be awarded a contract to provide Texas CDBG project-related **professional engineering services** for the 2016 Contract.

Section 2. That any and all contracts or commitments made with the above-named services providers are dependent on the successful negotiation of a contract with the service provider;

PASSED AND APPROVED ON _____, 2016.

APPROVED:

Mayor Glen Smith

ATTEST:

City Secretary Angela Flores

3. Discuss and consider accepting amendments to the Junkyard Ordinance 2016-O-8.

ORDINANCE NO. 2016-O-8

AN ORDINANCE AMENDING ARTICLE 4.04 “JUNKYARDS, WRECKING YARDS, SALVAGE YARDS” OF THE CODE OF ORDINANCES OF THE CITY OF PALACIOS, TEXAS TO ADOPT DEFINITIONS AND REGULATIONS AS TO THE LOCATION AND OPERATION OF JUNKYARDS, WRECKING YARDS, AND SALVAGE YARDS WITHIN THE CITY; CONTAINING A SAVINGS CLAUSE; REPEALING INCONSISTENT ORDINANCES; ESTABLISHING A PENALTY FOR VIOLATIONS; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

WHEREAS, the City Council of the City of Palacios has determined that in order to better regulate and control junkyards, wrecking yards, and salvage yards within the City and thereby protect the health, safety and welfare of the citizens of Palacios, that a uniform set of definitions regarding such operations be adopted, as described within this ordinance; and

WHEREAS, the City Council of the City of Palacios has also determined that it should adopt regulations regarding junkyards, wrecking yards, and salvage yards in order to further protect the health, safety, and welfare of its citizens, such regulations being described herein; NOW THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PALACIOS, TEXAS:

SECTION 1: That Section 4.04.001, of the Code of Ordinances of the City of Palacios, Texas is hereby amended to read as follows:

Sec. 4.04.001 ~~002~~ Prohibited; exceptions

(a) Any place used or maintained by any person, partnership, or corporation as a junkyard or dumping ground, or for the wrecking or disassembling of automobiles, trucks, tractors, or machinery of any kind, or for the storing or leaving of worn out, wrecked, or abandoned automobiles, trucks, tractors, or machinery of any kind, or of any of the parts thereof, or for the maintenance or operation of such place for the accumulation of rubbish of any description, is hereby declared to be a public and common nuisance, and is prohibited within the city limits, unless the same is conducted in the manner hereinafter stated, following the payment of the license fee prescribed.

(b) No junkyard, salvage or wrecking yard shall be maintained, used or operated on any lot, plot or tract of land any part of which is located within 50 feet from any school, daycare facility, hospital, or residence. Furthermore, a minimum of one acre shall be required for a junkyard, salvage or wrecking yard.

SECTION 2: That a new Section 4.04.001 of the Code of Ordinances of the City of Palacios, Texas is hereby adopted and shall read as follows:

Sec. 4.04.001 Definitions:

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Automotive wrecking and salvage yard: an outdoor place where a person stores three or more vehicles for the purpose of dismantling or wrecking the vehicles to remove parts for sale or for use in automotive repair or rebuilding.

Child-care facility: the meaning set forth in the V.T.C.A. (Vernon's Texas Statutes and Codes Annotated), Human Resources Code 42.002, as it may be amended in the future.

Church: a structure where persons who profess a religious belief regularly assemble for religious worship or religious instruction and which is exempt from ad valorem taxes.

Hospital: A legally authorized institution in which there are complete facilities for diagnosis, treatment, surgery, laboratory, X-ray, and the prolonged care of bed patients. Clinics may have some but not all of these facilities.

Junk: copper, brass, iron, steel, rope, rags, batteries, tires, or other material that has been discarded or sold at a nominal price by a previous owner of the material. The term does not include a wrecked vehicle.

Junkyard: a place where a business that owns junk, and is operated to store, buy, or sell junk, keeps all or part of the junk outdoors until the business disposes of the junk.

Motor vehicle: has the meaning assigned by V.T.C.A. (Vernon's Texas Statutes and Codes Annotated), Transportation Code 541.201.

Person: an individual, partnership, corporation, estate, limited liability Company, trust, association or any other legal entity however formed.

Recycling business: a business primarily engaged in the business of:

- (a) converting metal or other material into raw material products that have:
 - (1) prepared grades; and
 - (2) an existing or potential economic value;
- (b) using raw material products described by Paragraph (a) in the production of new products; or
- (c) obtaining or storing metal or other material for a purpose described by Paragraph (a) or (b).

Residence: any structure which, at the time of the application for a permit, is being used as a dwelling place for residential purposes, whether single-family or multi-family.

Retention bond: Type of performance bond that protects the customer after a job or project is finished. It guarantees that the contractor will carry out all necessary work to correct structural and/or other defects discovered immediately after completion of the contract, even if full payment has been made to the contractor.

School: a public or private elementary, junior high, high school and/or institution of higher education.

T.C.E.Q. (Texas Commission on Environmental Quality): State agency responsible for protecting our state's public health and natural resources through laws and regulations.

V.T.C.A. (Vernon's Texas Statutes and Codes Annotated): a compilation of Texas law that is updated annually.

Wrecking yard: place for dismantling, storage, trading or buying and selling of disabled dismantled and damaged vehicles. A damaged vehicle as used herein means any vehicle, which has been involved in a collision in which a re-inspection is required by state law.

SECTION 3: That Section 4.04.004, of the Code of Ordinances of the City of Palacios, Texas is hereby amended to read as follows:

Sec. 4.04.004 009 Revocation of License

The city council shall have the power to revoke the license provided for herein at any time for good cause, but only after notice has been given to the owner or owners of the business of a hearing to be held not less than ten (10) days after the service of such notice.

SECTION 4: That new Sections 4.04.003 through 4.04.008 of the Code of Ordinances of the City of Palacios, Texas are hereby adopted and shall read as follows:

Sec. 4.04.003 License application and issuance procedures

(a) Junkyard, salvage and wrecking yards shall have all required permits issued from TCEQ and must meet all federal and state requirements.

(b) Junkyard, salvage and wrecking yards shall file a license application with the city secretary and provide a retention bond along with copies of all required permits. Any violations shall be reported to the code enforcement office.

(c) Junkyard, salvage and wrecking yard permit fee shall be \$100 annually, inspection fee of \$100 will include four quarterly inspections; additional inspections will be \$50 per inspection.

Sec. 4.04.004 Fencing

(a) A solid eight foot fence or wall constructed of wood or masonry and must at all times encompass the entire property of a junkyard, salvage or wrecking yard. Fences shall be constructed of all the same material and have the same color and may not have any sign appear on its surface other than a sign indicating the business name.

(b) Openings in the prescribed enclosures which are necessary to permit reasonable access to the junkyard shall be equipped with a solid gate or gates, constructed and maintained in accordance with the requirements for a fence or wall hereinabove set forth. Such gates shall be closed and securely locked at all times, except during normal business hours.

Sec. 4.04.005 Storage and Maintenance

(a) No items shall be placed, stored, dismantled or worked on outside the fenced or walled areas.

(b) All junked items shall be stacked and stored in a manner that would not make it visible over the fence or wall.

(c) All junk car bodies which are located outside of a building shall be stored on racks or supports so that the body makes no contact with the ground so as to provide for easier inspection and control of insects and rodents, and so as to facilitate water drainage.

(d) Salvaged parts for retail shall be stored indoors on racks or shelves two feet above floor for ease of maintenance.

(e) Any junkyard, salvage or wrecking yard shall be kept and maintained in a clean and sanitary condition so as not to attract rodents or insects. Grass and other vegetation shall not be allowed to grow to a height more than twelve (12) inches.

Sec. 4.04.006 Contaminated Liquid and Solid

(a) Upon the metal recycling entity's possession of all salvage materials, contaminated liquid wastes along with other contaminated materials, hazardous waste, and special waste—including Freon—shall be removed from the salvage materials and contained, stored, and disposed in compliance with all applicable state and federal regulations. Disposal of accumulated contaminated liquids and materials shall be accomplished by a duly licensed contractor. The

metal recycling entity shall maintain on premises all completed manifests evidencing legal disposal for a period of three (3) years from the date of disposal.

(b) All storage of liquid waste shall be subject to applicable local, state and federal regulations. In no event shall any metal recycling entity maintain a volume and weight of stored liquid waste inventory in excess of the lesser of the maximum exempt amounts allowed by the fire code as adopted within the City Code or state and federal regulations for a small quantity generator. All liquid waste shall be stored only in above ground containers in accordance with applicable federal, state and local laws and administrative regulations. It is unlawful for any waste to be held in a container that leaks, is in any other manner not in compliance with state and federal regulations, or in any manner fails to completely contain the material in question.

(c) All solid waste, regardless of character or category, shall be so contained as to cause or allow no release or spill of the material in question.

Sec. 4.04.007 Fire Safety

All metal recycling entities, as defined by this division, shall have a fire safety path. No salvage materials shall be placed within ten (10) feet of the surrounding wall or screen fence. The fire chief shall oversee fire safety path specifications and compliance for each metal recycling entity and may alter the required number of feet in accordance with the location, use, size, and other characteristics of an individual metal recycling entity.

Sec. 4.04.008 Existing Junkyards, Wrecking Yards, Salvage Yards

All existing junk yards, salvage and wrecking yards shall comply with the requirements of these regulations within one year of the effective date of the regulations, except for location.

SECTION 5: If any provisions, section, exception, subsection, paragraph, sentence, clause or phrase of this ordinance or the application of same to any person or set of circumstances, shall for any reason be held unconstitutional, void or invalid, such invalidity shall not affect the validity of the remaining provisions of this ordinance or their application to other persons or sets of circumstances and to this end all provisions of this ordinance are declared to be severable.

SECTION 6: All ordinances or parts of ordinances inconsistent with the terms of this ordinance are hereby repealed; provided however, that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this ordinance.

SECTION 7: Any person who shall violate any provision or provisions of this ordinance shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than \$500.00 for each violation. Each day in which any violation shall occur or continue shall constitute a separate offense.

SECTION 8: This Ordinance shall become effective after its approval and adoption upon second and final reading and its publication pursuant to law.

PASSED AND APPROVED on first reading this _____ day of _____, 2016.

PASSED, APPROVED AND ADOPTED on second and final reading this _____ day of _____, 2016.

CITY OF PALACIOS, TEXAS

GLEN SMITH, Mayor

ATTEST:

ANGELA FLORES, City Secretary

APPROVED AS TO FORM:

RANDALL B. STRONG, City Attorney

...ordinances\amending junkyards

ORDINANCE NO. 2016-O-9

AN ORDINANCE AMENDING ARTICLE 8.01 “GENERAL PROVISIONS” OF THE CODE OF ORDINANCES OF THE CITY OF PALACIOS, TEXAS TO ADOPT DEFINITIONS FOR NUISANCES WITHIN THE CITY AND INCLUDE REGULATIONS ON THE STORAGE OF TIRES ON PRIVATE PROPERTY; CONTAINING A SAVINGS CLAUSE; REPEALING INCONSISTENT ORDINANCES; ESTABLISHING A PENALTY FOR VIOLATIONS; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

WHEREAS, the City Council of the City of Palacios has determined that in order to better regulate and control nuisances within the City and thereby protect the health, safety and welfare of the citizens of Palacios, that a uniform set of definitions regarding nuisances be adopted, a described within this ordinance; and

WHEREAS, the City Council of the City of Palacios has also determined that it should adopt regulations on the storage of tires in order to further protect the health, safety, and welfare of its citizens, such regulations being described herein; NOW THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PALACIOS, TEXAS:

SECTION 1: That Article 8.01, “General Provisions”, of the Code of Ordinances of the City of Palacios, Texas is hereby amended to read as follows:

ARTICLE 8.01 GENERAL PROVISIONS

Sec.8.01.001 Definitions

For the purposes of this article, all the terms used herein shall be interpreted as follows:

Air contaminant means particulate matter, dust, fumes, gas, mist, smoke, vapor or odor, or any combination thereof, produced by processes other than natural.

Air pollution means the presence in the atmosphere of one or more air contaminants or combinations thereof, in such concentration and of such duration as are or may tend to be injurious to or to adversely affect humans, animal life, vegetation or property, or as to interfere with the normal use and enjoyment of animal life, vegetation or property.

Alley any street herein defined having no legal or official name other than “alley” of twenty feet (20') or less in width.

Brush shall mean scrub vegetation or dense undergrowth.

Carrion shall mean the dead and putrefying flesh of any animal, fowl or fish.

Commercial solid waste container shall mean a container used to store municipal solid waste which has a volume greater than two cubic yards.

Easement A strip of land reserved for the use of the public by the grantor, usually at the rear or side of lots or parcels of land, in which to install and maintain utility lines, drainage ditches or channels, or for other city or public services; the ownership or title to the land encompassed by the easement being retained by the owner. In granting the easement, the grantor is in effect vesting the public with authority to control the use of land within the easement and, in exercising such control, the city may specify that no buildings or part of a building or other permanent structure or fence, in case of a drainage easement, may be located within the limits of the easement.

Encroachment shall mean any object, structure or vegetation which obstructs or otherwise impedes or is likely to obstruct or otherwise impede the lawful passage of traffic, vehicular and pedestrian, over any street, alley, alley easement, utility easement greater than 10 feet in width, or sidewalk in the City.

Filth shall mean any matter in a putrescent state.

Improper storage shall mean the outdoor storage, for a period greater than 24 hours, in a residential district, as defined by the zoning ordinance, of articles and material subject to deterioration by the elements, including but not limited to furniture and appliances other than those customarily installed or used out-of-doors, boxes, vehicle parts, and paper; any material which is stored in a disorderly manner or in such a manner as to offer harborage to vermin; any cut wood, firewood, lumber, or other building material, except masonry, which is not stored a minimum of six inches above the ground.

Impure or unwholesome matter shall mean any putrescible or nonputrescible condition, object or matter which tends to, may, could produce injury, death or disease to human beings.

Notice shall mean given personally or delivered by U.S. Postal Service, certified or regular mail, in writing by a letter addressed to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located; to the occupant or person in charge, or if personal service cannot be obtained, by publication at least once in a paper of general circulation within the City of Palacios; or, by posting notice on or near the front door of each building on the property to which the violation relates, or by posting notice on a placard attached to a stake driven into the ground on the property to which the violation relates. In a notice provided under this section, the City may by regular mail and a posting on the property, or by personally delivering the notice, notify the owner that if the owner commits another violation of the same kind or nature that poses a danger to the public health and safety on or before the first anniversary of the date of the notice, the City may without further notice correct the violation at the owner's expense and assess the expense against the property.

Nuisance shall include stagnant or unwholesome water, sinks, privies, filth, carrion, weeds, rubbish, brush and refuse, impure or unwholesome matter of any kind, sewage exposed to the atmosphere, objectionable, unsightly or unsanitary matter of whatever nature, litter as defined elsewhere in this Code, harborage for rodents or parasitic insects, open wells, abandoned refrigerators, animal pen or enclosures which have become offensive, improper storage, graffiti, encroachment, substandard premises, junk motor vehicles, junked boats, junked off-road motorcycles or junked all terrain vehicles, poison ivy, poison oak, or poison sumac (within 50 feet of an occupied dwelling,) and potable water nuisances.

Objectionable, unsightly or unsanitary matter shall mean any matter, condition or object which is objectionable, unsightly or unsanitary to a person of ordinary sensitivity.

Open well shall mean any well, or cistern having a depth of ten (10) feet or greater and a width not greater than six (6) feet or any manmade pit, hole or excavation not sufficiently protected or guarded so as to insure the safety of all passing by or near same.

Outdoor decorative lighting shall mean electrical wiring with one or more bulbs or illuminated fixtures placed on a building or in a yard for an indefinite period.

Potable water nuisance means the presence of pooled or standing water from a potable water supply in a quantity and location that may provide a breeding place for mosquitoes, the discharge of potable water to adjacent property in a volume or at a rate that damages vegetation, buildings, fences or other structures on the adjacent property, or the discharge of potable water to a street or other public property that creates a hazard to traffic due to the presence of accumulated water or ice.

Refuse shall mean any homogeneous or heterogeneous accumulation of worn out, used up, broken, rejected or worthless materials.

Rubbish shall mean trash, debris, rubble, stone, fragments of building materials, mounds of dirt or rock and any other material.

Scrap tire A tire that is no longer suitable for use on vehicles due to wear or irreparable damage. Scrap tire does not include repurposed tires for ornamental use.

Sewage shall mean wash water and water-carried animal, culinary, and industrial wastes; liquid waste containing human excreta, and other matter, flowing in or from a property drainage system or sewer. Excreta include feces, urine, secretions from the skin, expectoration, liquid wastes from dwellings and institutions, stables, and business buildings.

Source means any point of origin of an air contaminant.

Temporary portable storage container shall mean a portable storage building or container with an interior volume greater than 400 cubic feet and that is rented, leased, or loaned to a person and intended for short-term storage of personal property.

Unmanaged landscape vegetation shall mean:

- (1) Landscape trees, bushes, shrubs, vines, brush and ground cover plants that, due to lack of trimming, pruning and shaping, have become unsightly to persons of ordinary sensibilities;
- (2) Dead trees, shrubs, vines, brush or ground cover; and
- (3) Trees that represent a safety hazard due to disease or damage.

Weeds shall mean uncultivated or cultivated vegetation, including grass, having a height in excess of twelve (12) inches.

Any word not herein defined shall be construed in the context used in ordinary interpretations.

Sec. 8.02.001 Enumeration

The following are hereby declared and deemed to be public nuisances and may be abated as herein provided:

- (1) All diseased animals running at large.
- (2) All ponds or pools of stagnant water.
- (3) Accumulations of refuse.
- (4) The pollution of any well used for drinking purposes.
- (5) All noxious weeds and other rank growth in excess of twelve (12) inches in height upon private property.
- (6) Obstructions and excavations affecting the ordinary use by the public of streets, alleys, sidewalks, or public grounds, except under such conditions as allowed by the city council for the public good.
- (7) All trees, hedges, shrubs, signs, billboards, or other obstructions which prevent persons from having a clear view of traffic approaching.
- (8) Whatever is injurious to health or offensive to the senses of a person of ordinary sensibilities or an obstruction to free use of property so as to essentially interfere with the comfortable enjoyment of life or property.

Sec. 8.02.002 Unlawful to create or maintain

The creation or maintenance of a nuisance is prohibited, and whenever any public nuisance as defined in [section 8.02.001](#) above is found upon any private property, the director of public health may order the removal or abatement of such nuisance and may serve or cause to be served upon the owner, occupant, or person in charge of the property on which said nuisance [exists] a written notice by delivering or offering to deliver a copy of such notice to such person, requiring the removal or abatement of the nuisance within a reasonable specified time after the service of such notice. (1996 Code, sec. 7.702)

Sec. 8.02.003 Abandoned airtight containers

No person may leave outside of any building any icebox, refrigerator, or any other container designed to be airtight, if such container has a door equipped with a catch or lock which may not be released from the inside. (1996 Code, art. 7.800)

State law reference—Regulation of abandoned refrigerators, freezers, and similar containers, V.T.C.A., Health and Safety Code, sec. 756.011 et seq.

Sec. 8.02.004 Tires

- a) It shall be unlawful to store tires of any kind on private property unless stored indoors, example, garage, storage shed, or lean to.
- b) Tires found in easement will be the considered a nuisance violation, Article 6.04 Trash, Rubbish, Tall Grass and Weeds, enforced by the code enforcement official.
- c) Notification of violation will be sent by a certified letter with return receipt. Violators will be given ten (10) days to remove tires. Second notification will be copied and sent to the municipal court for processing.

Sec. 8.02.005 Service of notice

The notice to abate shall be served by code enforcement official upon the named person or persons. In the event personal service cannot be made, service may be by certified mail. (1996 Code, sec. 7.703)

SECTION 2: If any provisions, section, exception, subsection, paragraph, sentence, clause or phrase of this ordinance or the application of same to any person or set of circumstances, shall for any reason be held unconstitutional, void or invalid, such invalidity shall not affect the validity of the remaining provisions of this ordinance or their application to other persons or sets of circumstances and to this end all provisions of this ordinance are declared to be severable.

SECTION 3: All ordinances or parts of ordinances inconsistent with the terms of this ordinance are hereby repealed; provided however, that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this ordinance.

SECTION 4: Any person who shall violate any provision or provisions of this ordinance shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than \$2,000.00 for each violation. Each day in which any violation shall occur or continue shall constitute a separate offense.

SECTION 5: This Ordinance shall become effective after its approval and adoption upon second and final reading and its publication pursuant to law.

PASSED AND APPROVED on first reading this _____ day of _____, 2016.

PASSED, APPROVED AND ADOPTED on second and final reading this _____ day of _____, 2016.

CITY OF PALACIOS, TEXAS

GLEN SMITH, Mayor

ATTEST:

ANGELA FLORES, City Secretary

APPROVED AS TO FORM:

RANDALL B. STRONG, City Attorney

...ordinances/amending.nuisances

5. Discuss and consider reappointing Patricia Loving to the Planning & Zoning Commission for 2-year term.



JOHN C. SARDELICH – Mayor
JOHNNY TRAN – Mayor Pro-Tem – Councilmember Place 1
JUDY CHAVEZ – Councilmember Place 2
MARY CROCKER – Councilmember Place 3
GLEN SMITH – Councilmember Place 4
ANDY ERDELT – Councilmember Place 5
TROY LEWIS – Councilmember Place 6

**CITY OF PALACIOS
CITY COUNCIL MEETING MINUTES
September 27, 2016**

REGULAR COUNCIL MEETING

CALL TO ORDER – Mayor Smith called the Regular Meeting to order at 7:00 p.m.

City Staff present: David Kocurek, Angela Flores, Chief Miles

Council Absent: Councilmember Chavez and Councilmember McGovern

INVOCATION – Councilmember Erdelt

PLEDGE OF ALLEGIANCE – Councilmember Tran

PLEDGE TO TEXAS FLAG – Councilmember Tran

PLEDGE TO PALACIOS FLAG – Councilmember Tran

VISITOR / CITIZEN FORUM – Patricia Loving had concern about the citizen who came to speak last meeting. She expressed wishes that a form be on the website so that citizens can have a better forum for complaints. Says there is money for training in Police Department and she hopes it can be used to establish better relationships with citizens.

PROCLAMATION

1. POW/MIA Recognition Day
2. Gold Star Mother's Day

ADMINISTRATIVE REPORTS

1. Fall Clean Up- was a good turn out
2. Bay Fest October 7-8- will have events on both days
3. 9th Street Reconstruction- There was a reach out message informing citizens that the road will be closed for repairs through October.

ITEMS TO BE CONSIDERED

1. Discuss and consider adopting Resolution 2016-R-17 to designate administration and engineering service providers for the 2016 Texas CDBG Texas Capital Fund. Grant Works had highest score for Grant writing services and Urban Engineering had highest score over John D. Mercer for Engineering services. Councilmember Erdelt moved to approve Resolution 2016-R-17. Councilmember Crocker seconded. There was no opposition. With no opposition, the motion carried.
2. Discuss and consider adopting Resolution 2016-R-18 that designates areas within the designated Historic Commercial District as slum/blighted and in need of improvement. Councilmember Tran moved to approve Resolution 2016-R-18. Councilmember Erdelt seconded. There was no opposition. With no opposition, the motion carried.
3. Discuss and consider adopting Resolution 2016-R-19 that authorizes submission of an application to the Texas Department of Agriculture for a 2016 Texas Capital Fund-Downtown Revitalization Program grant to construct sidewalk, lighting and handicapped accessibility improvements in the designated Historic Commercial District. Councilmember Crocker moved to approve Resolution 2016-R-19. Councilmember Dodd seconded. There was no opposition. With no opposition, the motion carried.

4. Discuss and consider adopting Resolution 2016-R-20 that adopts a public access plan to be utilized during infrastructure construction projects funded through the Texas Capital Fund-Downtown Revitalization Program.
Mayor Smith moved to approve Resolution 2016-R-20.
Councilmember Tran seconded.
There was no opposition.
With no opposition the motion carried.
5. Discuss and consider action on adoption of a Citizen Participation Plan and Citizen Complaint Procedures to be followed during implementation of Texas Community Development Block Grant Program Texas Capital Fund Projects.
Councilmember Crocker moved to approve adoption of a Citizen Participation Plan.
Councilmember Erdelt seconded.
There was no opposition.
With no opposition the motion carried.
6. Discuss and consider appointing a Council Member to be the Houston-Galveston Area Council (H-GAC) Official Representative for the 2017 General Assembly.
Councilmember Tran nominated himself for the H-GAC Official Representative.
Mayor Smith moved to approve the nomination.
Councilmember Dodd seconded.
There was no opposition.
With no opposition the motion carried.
7. Discuss and consider appointing a Council Member to be the Houston-Galveston Area Council (H-GAC) Alternate Representative for the 2017 General Assembly.
Mayor Smith nominated himself as the H-GAC Alternate Representative.
Mayor Smith moved to approve the nomination.
Councilmember Dodd seconded.
There was no opposition.
With no opposition, the motion carried.
8. Discuss and consider action to approve the following consent agenda items:
 - a) Minutes of the September 13, 2016 Regular Council Meeting
Councilmember Erdelt motioned to approve the Consent Agenda.
Councilmember Dodd seconded.
There was no opposition.
With no opposition the motion carried.

EXECUTIVE SESSION-

In accordance with Chapter 551, Government Code, (Open Meetings Law) the Council May go into Executive (closed) session in order to:

Consult with its attorney (551.071)

Discuss Real Estate transaction (551.072)

Deliberation regarding prospective gifts or donation (551.073)

Discuss personnel matters (551.074)

Deliberation regarding security devices (551.076)

Discuss economic development negotiations (551.087)

ACTION ON EXECUTIVE SESSION

ADJOURN

Councilmember Tran motioned to adjourn at 7:29 pm.

Councilmember Dodd seconded.

There was no opposition.

With no opposition, the motion carried.

Glen Smith, Mayor

Angela Flores, City Secretary

EXECUTIVE SESSION

In accordance with Chapter 551, Government Code, (Open Meetings Law) the Council
May go into Executive (closed) session in order to:

Consult with its attorney (551.071)

Discuss Real Estate transaction (551.072)

Deliberation regarding prospective gifts or donation (551.073)

Discuss personnel matters (551.074)

A. Discuss and review City Manager's Performance Annual Evaluation

Deliberation regarding security devices (551.076)

Discuss economic development negotiations (551.087)

ACTION ON EXECUTIVE SESSION:

- A. City Manager's Annual Performance Evaluation

ADJOURN

In compliance with the Americans with Disabilities Act, the City of Palacios will provide for reasonable accommodations for persons attending public meetings. To better serve attendees, requests should be received 24 hours prior to the meeting. Please contact City Hall, at 361.972.3605.

CERTIFICATION

I certify that a copy of the October 11, 2016 agenda of items to be considered by the City Council was posted on the City Hall bulletin board by 5:00p.m. on October 7, 2016.