

October 21, 2025

A regular meeting of the City Council was held at City Hall, 110 S Ash, on Tuesday, October 21, 2025, at 6:30 p.m., with Mayor Kerry Symons presiding. Mayor Symons gave the invocation and the Pledge of Allegiance was recited. Mayor Symons welcomed guests.

**COUNCIL MEMBERS PRESENT:** Mayor Kerry Symons, Councilmembers Greg Good, J Aston, Brad Kile, Brady Burdick, Brad Herring  
**COUNCIL MEMBERS ABSENT:** None

**OTHERS PRESENT:** Waters, Fowler, Knapp, Chief Gonzalez, Sam Gonzalez, Miguel Valenzuela, Rachel Knapp, Mary Dudley, and Salem Abraham

**COUNCIL ITEMS:** None

**SUPPLEMENTAL ITEMS:** None

**PUBLIC COMMENTS:** None

**CONSIDER APPROVING MINUTES OF THE PREVIOUS MEETING:** COUNCILMAN J ASTON MADE A MOTION TO APPROVE THE MINUTES OF OCTOBER 7, 2025, SECONDED BY COUNCILMAN BRADY BURDICK. ALL VOTED AYE, MOTION CARRIED.

**CONSIDER PAYING BILLS OF THE PREVIOUS MONTH:** Blasingame will inform council of the bills at the next council meeting.

**CONSIDER ADOPTING ORDINANCE #030-25, APPROVING A BROADBAND INTERNET AND RIGHT-OF-WAY AGREEMENT WITH PANHANDLE TELECOMMUNICATIONS SYSTEMS, INC. D/B/A PTCI:** Waters informed council that the previous agreement with PTCI for use of the City's right-of-way expired in September. The proposed agreement is identical to the previous agreement and has a 5-year term. **COUNCILMAN BRAD HERRING MADE A MOTION TO ADOPT ORDINANCE #030-25, APPROVING A BROADBAND INTERNET AND RIGHT-OF-WAY AGREEMENT WITH PANHANDLE TELECOMMUNICATIONS SYSTEMS, INC. D/B/A PTCI, SECONDED BY COUNCILMAN GREG GOOD. ALL VOTED AYE, MOTION CARRIED.**

**ORDINANCE #030-25**

**AN ORDINANCE GRANTING PANHANDLE TELECOMMUNICATION SYSTEMS, INC D/B/A PTCI, A BROADBAND INTERNET AND RIGHT-OF-WAY AGREEMENT TO UTILIZE THE CITY OF PERRYTON'S STREETS, ALLEYS, AND PUBLIC EASEMENTS TO OPERATE AND MAINTAIN AN INTERNET SYSTEM**

**WHEREAS**, PTSI is a Broadband Internet Provider desiring to install and maintain infrastructure within the City limits of the City of Perryton, and

**WHEREAS**, the City recognizes the importance and critical need of a broadband internet service.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PERRYTON, TEXAS, THE FOLLOWING AGREEMENT BETWEEN PTSI AND THE CITY IS APPROVED:**

**PASSED, APPROVED, and ADOPTED THIS 21<sup>st</sup> DAY OF OCTOBER, 2025.**

**THE CITY OF PERRYTON, TEXAS**

/s/ Kerry Symons

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Mayor, City of Perryton

**ATTEST:**

/s/ Kim Fowler

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City Clerk, City of Perryton

**DISCUSS AND TAKE ACTION TO SELECT A CONSULTING FIRM IN RESPONSE TO THE PROPOSALS SUBMITTED FOR THE RFP FOR SAFER ELECTRIC UTILITY ALTERNATIVES, AUTHORIZE THE CITY MANAGER TO NEGOTIATE A CONTRACT WITH THE SELECTED FIRM AND AUTHORIZE THE CITY MANAGER TO ENTER INTO A CONTRACT WITH THE SELECTED FIRM:**

Waters informed council that a notice for a RFP for a consulting firm for safer electric utility alternatives was posted in the August 7<sup>th</sup> and August 14<sup>th</sup> editions of the Perryton Herald. One proposal was received in response from Don't Burn Me Services, LLC (DBM). DBM's services will include analysis, advice, and assistance on arranging financing for improved electrical service or for acquiring an electric service provider. **COUNCILMAN GREG GOOD MADE A MOTION TO SELECT DON'T BURN ME SERVICES, LLC AS THE CITY OF PERRYTON'S CONSULTANT IN REGARDS TO SAFER ELECTRIC UTILITY ALTERNATIVES, AND TO AUTHORIZE THE CITY MANAGER TO NEGOTIATE AND ENTER INTO A CONTRACT WITH DBM, SECONDED BY COUNCILMAN J ASTON. ALL VOTED AYE, MOTION CARRIED.**

**DISCUSS AND TAKE ACTION ON NOMINATIONS AND ELECTION OF REPRESENTATIVE(S) TO PANHANDLE ALLIANCE FOR SAFE ELECTRICITY (PASE) BOARD OF DIRECTORS:** Waters asked council to consider appointing the city manager as well as two (2) councilmembers to serve on the PASE Board of Directors. Salem Abraham gave a brief description of the board. **COUNCILMAN J ASTON MADE A MOTION TO APPOINT THE CITY MANAGER, MAYOR KERRY SYMONS, AND COUNCILMAN GREG GOOD TO SERVE ON THE PASE BOARD OF DIRECTORS, SECONDED BY COUNCILMAN BRADY BURDICK. ALL VOTED AYE, MOTION CARRIED.**

**DISCUSS AND TAKE ACTION ON THE ADOPTION OF AN ORDINANCE AMENDING CHAPTER 1 GENERAL PROVISIONS, BY ADDING ARTICLE 2, ACQUISITION OF A GOING CONCERN:** Waters explained to council that the ordinance will provide an outline for the procedure for an acquisition through the power of eminent domain, and the procedure for determining just and adequate compensation. There is currently not a procedure in place. **COUNCILMAN BRAD KILE MADE A MOTION ADOPT ORDINANCE #031-25, AMENDING CHAPTER 1 GENERAL PROVISIONS, BY ADDING ARTICLE 2, ACQUISITION OF A GOING CONCERN. COUNCILMAN GREG GOOD, COUNCILMAN J ASTON, COUNCILMAN BRAD KILE, AND COUNCILMAN BRAD HERRING VOTED AYE. COUNCILMAN BRADY BURDICK VOTED NAY. MOTION CARRIED.**

#### **ORDINANCE #031-25**

**AN ORDINANCE OF THE CITY OF PERRYTON, TEXAS, PROVIDING A METHOD OF ACQUIRING A GOING CONCERN THAT IS A SERVICE PROVIDER TO THE GENERAL PUBLIC AND HAS A DUTY TO THE GENERAL PUBLIC THROUGH EMINENT DOMAIN PROCEEDINGS, ESTABLISHING A PROCEDURE TO DETERMINE ADEQUATE COMPENSATION FOR THE ACQUISITION, PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Perryton and its residents have experienced, along with other cities and counties in the Texas Panhandle, financial loss and damage resulting from wildfires started in part by a privately owned and operated public service electric utility provider; and,

**WHEREAS**, the City Council finds that its residents may be subjected to and put at risk by the operational failures of their utility service providers, including negligent practices that do not adequately protect the public, including deferred maintenance and repair work needed for safe operation of a public service utility; and,

**WHEREAS**, the public has a need and it is a valid municipal purpose to provide for safe utility service to the residents of the City of Perryton and other jurisdictions similarly affected; and,

**WHEREAS**, there is no existing procedure for the condemnation or acquisition through eminent domain of a going concern that would allow a municipality to assume the assets, obligations, and operations of a privately owned and operated public service utility provider that is failing its obligations to provide for safe, effective utility service; and,

**WHEREAS**, the City Council finds that it is necessary for the City of Perryton to establish a lawful procedure for the condemnation or acquisition through eminent domain of a going concern should the City of Perryton determine that such an acquisition is necessary for a public use and choose to exercise that power.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PERRYTON, TEXAS;**

#### **SECTION 1 AMENDMENT**

**That**, Chapter 1, General Provisions of the Perryton Code of Ordinances is amended by adding Article 2 Acquisition of a Going Concern, establishing a procedure for acquisition of a going concern by the power of eminent domain and determination of just and adequate compensation for the taking, as follows:

#### **CHAPTER 1 GENERAL PROVISIONS ARTICLE 2 ACQUISITION OF A GOING CONCERN SUBCHAPTER A. JURISDICTION**

##### **Sec. 1-21. - CONCURRENT JURISDICTION.**

In accordance with Texas law, district courts shall have exclusive jurisdiction in eminent domain cases under this chapter.

##### **Sec. 1-22. - DISTRICT COURT AUTHORITY.**

- 1) Pursuant to Texas law a district court may determine all issues, including the authority to condemn a going concern and the assessment of damages, in any suit:
  - a) in which the city, a person, an association of persons, or a corporation is a party; and,
  - b) that involves a claim for a going concern or for damages to a going concern obtained by the city under the city's eminent domain authority or for an injunction to prevent the city from obtaining, managing, controlling or using the going concern under the city's eminent domain authority.

##### **Sec. 1-23. - RIGHT TO CONDEMN A GOING CONCERN.**

- 1) The city is authorized to use its power under one or more of the TEXAS CONSTITUTION, Article I, Section 17, and TEXAS LOCAL GOVERNMENT CODE, Sec. 251.001, to acquire and to condemn property as a going concern that is providing or meeting a public use, pursuant to the procedure set out herein, and with payment of adequate compensation. A going concern subject of this ordinance is:

- a) a for-profit entity, as defined by Section 1.002, Business Organizations Code, however organized, including an affiliate or subsidiary authorized to do business in the State of Texas;
- b) providing a municipal purpose or function the city is authorized to provide under state law;
- c) being acquired by the city to be put to a public use;
- d) performing that function in a manner that the city has found is substantially and materially harming the public or is putting the public at undue risk of sustaining substantial and material harm; and
- e) being acquired in its entirety, without remainder.

## **SUBCHAPTER B. PROCEDURE**

### **Sec. 1-24. - EFFECT OF CHAPTER ON SURVEY ACCESS RIGHTS AND OBTAINING INFORMATION.**

Nothing in this chapter prevents the city from seeking survey access rights and obtaining information about a going concern, as part of diligence or acquisition, as provided by law.

### **Sec. 1-25. - PROTECTION OF PRIVACY FOR CONFIDENTIAL AND PROPRIETARY INFORMATION OBTAINED FROM THE GOING CONCERN.**

Confidential and proprietary information obtained by the city from the going concern shall be maintained by the city as confidential information and shall not be publicly disclosed, and the city shall seek to have it protected from disclosure by the courts, to the fullest extent as allowed under Chapter 552, Government Code.

### **Sec. 1-26. - STANDARD PROCEDURE.**

Exercise of the eminent domain authority in cases involving the acquisition of a going concern is governed by Texas Property Code, Sections 21.012 through 21.016, as may be applicable and except as may be otherwise provided herein.

### **Sec. 1-27. - DISCLOSURE OF CERTAIN INFORMATION REQUIRED; INITIAL OFFER.**

- 1) The city exercising the authority to acquire through eminent domain a going concern for a public use shall, by certified mail to the registered agent for service, return receipt requested, disclose to the owner of the going concern at the time an offer to purchase the going concern is made any and all appraisal reports produced or acquired by the city relating specifically to the owner's going concern and prepared in the 10 years preceding the date of the offer.
- 2) The city seeking to acquire a going concern through the use of eminent domain shall, not later than the third business day before the date of a special commissioner's hearing, disclose to the going concern owner any and all current and existing appraisal reports produced or acquired by the city relating specifically to the owner's going concern and used in determining the city's opinion of value, if an appraisal report is to be used at the hearing.
- 3) A going concern owner shall disclose to the city seeking to acquire the going concern any and all current and existing appraisal reports produced or acquired by the going concern owner relating specifically to the owner's going concern and used in determining the owner's opinion of value. Such disclosure shall take place not later than the earlier of:
  - a) the 10th day after the date of receipt of an appraisal report; or
  - b) the third business day before the date of a special commissioner's hearing if an appraisal report is to be used at the hearing.
- 4) The city seeking to acquire a going concern that the city is authorized to obtain through the use of eminent domain may not include a confidentiality provision in an offer or agreement to acquire the going concern. The city shall inform the owner of the going concern that the owner has the right to:
  - a) discuss any offer or agreement regarding the city's acquisition of the going concern with others; or
  - b) keep the offer or agreement confidential, unless the offer or agreement is subject to Chapter 552, Government Code.
- 5) A subsequent bona fide purchaser for value from the city may conclusively presume that the requirement of this section has been met.
- 6) This section does not apply to acquisitions of a going concern for which the city does not have eminent domain authority.

### **Sec. 1-28. - BONA FIDE OFFER REQUIRED.**

- 1) The city exercising the authority to acquire through eminent domain a going concern for a public use must make a bona fide offer to acquire the going concern from the going concern owner voluntarily.
- 2) The city has made a bona fide offer if:
  - a) an initial offer is made in writing to a going concern owner that includes:
    - a) A statement, in bold print and a larger font than the other portions of the offer, indicating whether the compensation being offered includes an appraisal of the going concern prepared by an expert qualified by knowledge, skill, experience, training, or education;
    - b) An instrument of conveyance of the stock certificates or other ownership interests of the going concern;
    - c) The name and telephone number of a representative of the city who is:
      - (a) an employee of the city;
      - (b) an employee of an affiliate providing services on behalf of the city;
      - (c) a legal representative of the city; or
      - (d) if the city does not have employees, an individual designated to represent the day-to-day operations of the city;

- b) a final offer is made in writing to the going concern owner; and
  - a) the final offer is made on or after the 30th day after the date on which the city makes a written initial offer to the going concern owner;
  - b) Before making a final offer, the city obtains a written appraisal from an expert qualified by knowledge, skill, experience, training, or education to testify on the appraisal that includes the value of the going concern being acquired;
  - c) The final offer is equal to or greater than the amount of the written appraisal obtained by the city;
  - d) The following items are included with the final offer or have been previously provided to the going concern owner by the city:
    - (1) a copy of the written appraisal;
    - (2) a copy of the bill of sale or other instrument conveying the stock certificates or other ownership interests of the going concern sought to be acquired; and
    - (3) the city provides the going concern owner with at least 14 days to respond to the final offer and the going concern owner does not agree to the terms of the final offer within that period.
- 3) An initial or final offer made by the city may provide that payment by the city of an accepted offer to the going concern owner shall be made within 180 days of there being a final determination by the necessary regulatory authorities that allows the acquisition of the going concern by the city to move forward.
- 4) An accepted offer is voided, and the city is not liable for damages, fees or expenses if:
  - a) there is a final determination by the necessary regulatory authorities that does not allow the acquisition to move forward; or,
  - b) the city does not pay to the going concern owner the offer amount within the 180 days period set out above.
- 5) The city is to diligently pursue all necessary regulatory approvals necessary to allow the acquisition to move forward once an offer is accepted.
- 6) The owner of the going concern, during the period the accepted offer is pending:
  - a) shall not destroy, damage or transfer out value of the going concern;
  - b) shall, subject to any receivership or conservatorship order by the court pursuant to Subsection 1-37(2), below, continue to operate the going concern in a manner that is consistent with the historical and customary operation of the going concern; and,
  - c) shall not sell equity interests in the entity and transactions which would encumber or divest assets not in the ordinary course of business.

**Sec. 1-29. - CONDEMNATION PETITION.**

- 1) If the city wants to acquire a going concern for public use but is unable to agree with the going concern owner on the amount of damages, the city may begin a condemnation proceeding by filing a petition in the proper court.
- 2) The petition must:
  - a) describe the going concern to be condemned;
  - b) state with specificity the public use for which the city intends to acquire the going concern;
  - c) state the name of the going concern owner if the owner is known;
  - d) state that the city and the owner are unable to agree on the damages; and
  - e) state that the city made a bona fide offer to acquire the going concern from the going concern owner voluntarily as provided by Section 1-28.
- 3) The city upon filing a petition under this section must concurrently provide a copy of the petition to the going concern owner by certified mail, return receipt requested, and first- class mail. If the city has received written notice that the going concern owner is represented by counsel, the city must also concurrently provide a copy of the petition to the going concern owner's attorney by first class mail, commercial delivery service, fax, or e- mail.

**Sec. 1-30. - VENUE; FEES AND PROCESSING FOR SUIT FILED IN DISTRICT COURT.**

- 1) The venue of a condemnation proceeding for the acquisition of a going concern is any Texas county in which the going concern operates or has substantial contact.
- 2) A party initiating a condemnation proceeding shall file the condemnation petition with the district clerk. The filing fee shall be due at the time of filing.
- 3) District clerks shall assign an equal number of eminent domain cases in rotation to each court with jurisdiction that the clerk serves.

#### **Sec. 1-31. - SPECIAL COMMISSIONERS.**

- 1) The judge of a court in which a condemnation petition for the acquisition of a going concern is filed or to which such an eminent domain case is assigned shall, not later than the 30th calendar day after the petition is filed, appoint three disinterested business owners who reside in the service area of the going concern as special commissioners to assess the damages of the owner of the going concern being condemned and appoint two disinterested going concern owners who reside in the service area of the going concern as alternate special commissioners. The judge appointing the special commissioners shall appoint persons agreed on by the parties, if any, unless the judge, in good faith, finds one of the persons to be unqualified, and shall consider persons each party recommends but do not agree to act as special commissioners, if any, before the court appoints the special commissioners the court deems the best qualified. The judge shall provide the names and contact information of the special commissioners and alternate special commissioners to the parties. Each party shall have until the later of 10 calendar days after the date of the order appointing the special commissioners or 20 days after the date the petition was filed to strike one of the three special commissioners. Any strike of a special commissioner must be filed electronically with electronic service provided concurrently to any represented party and first-class mail service provided concurrently to any other party. If a person fails to serve as a special commissioner or is struck by the city to the suit in accordance with this subsection, an alternate special commissioner shall serve as a replacement for the special commissioner based on the order that the alternate special commissioners are listed in the initial order of appointment. If the city exercises a strike, the other party may, by the later of the third day after the date of filing of the initial strike or the date of the initial strike deadline, strike a special commissioner from the resulting panel, provided the other party has not earlier exercised a strike.
- 2) The special commissioners shall swear to assess damages fairly, impartially, and according to the law.
- 3) Special commissioners may compel the attendance of witnesses and the production of testimony and tangible items, administer oaths, and punish for contempt in the same manner as a county judge.
- 4) Each party in an eminent domain proceeding is entitled to a copy of the court's order appointing special commissioners under Subsection (1), above. The court must promptly provide the signed order to the city initiating the condemnation proceeding and that party must provide a copy of the signed order to the going concern owner and each other party by certified mail, return receipt requested. If the city has received written notice that the going concern owner is represented by counsel, the city initiating the condemnation proceeding must concurrently provide a copy of the signed order to the going concern owner's attorney by first-class mail, commercial delivery service, fax, or e-mail.

#### **Sec. 1-32. - HEARING.**

- 1) The special commissioners in an eminent domain proceeding shall promptly schedule a hearing for the parties at the earliest practical time but may not schedule a hearing to assess damages before the 20th day after the date the special commissioners were appointed. The special commissioners shall schedule a hearing for the parties at a place that is as near as practical to the going concern being condemned or at the county seat of the county in which the proceeding is being held.
- 2) After notice of the hearing has been served, the special commissioners shall hear the parties at the scheduled time and place or at any other time or place to which they may adjourn the hearing.

#### **Sec. 1-33. - NOTICE.**

- 1) Each party in an eminent domain proceeding is entitled to written notice issued by the special commissioners informing the parties of the time and place of the hearing.
- 2) Notice of the hearing must be served on the parties not later than the 20th day before the day set for the hearing. A person competent to testify may serve the notice.
- 3) A person who serves a notice shall return the original notice to the special commissioners on or before the day set for hearing. The person shall write a return of service on the notice that states how and when it was served.
- 4) Notice may be served:
  - a) by delivering a copy of the notice to the party or to the party's agent or attorney;
  - b) if the going concern being condemned belongs to a deceased's estate or to a minor or other legally disabled person and the person or estate has a legal representative, by delivering a copy of the notice to the legal representative; or,
  - c) if the going concern being condemned belongs to a nonresident of this state and there has been no personal service on the owner, if the identity or the residence of the going concern owner is unknown, or if the going concern owner avoids service of notice by hiding, by publication in the same manner as service of citation by publication in other civil cases.

#### **Sec. 1-34. - APPEAL FROM COMMISSIONERS' FINDINGS.**

- 1) A party to a condemnation proceeding to acquire a going concern may object to the findings of the special commissioners by filing a written statement of the objections and their grounds with the court that has jurisdiction of the proceeding. The statement must be filed on or before the first Monday following the 20th day after the day the commissioners file their findings with the court.
- 2) If a party files an objection to the findings of the special commissioners, the court shall cite the adverse party and try the case in the same manner as other civil causes.

#### **Sec. 1-35. - DISMISSAL OF CONDEMNATION PROCEEDINGS.**

The city may move to dismiss the proceedings and any point prior to entry of judgment, and the court shall conduct a hearing on the motion. However, after the special commissioners have made an award, in an effort to obtain a lower award, the city may not dismiss the condemnation proceedings merely to institute new proceedings that involve substantially the same condemnation against the same going concern owner.

**Sec. 1-36. - REINSTATEMENT OF CONDEMNATION PROCEEDINGS.**

If the city moves to dismiss a condemnation proceeding and subsequently files a petition to condemn substantially the same going concern interest from the same going concern owner, the court may not appoint new special commissioners but shall enter the award of the special commissioners in the first proceeding as the award in the second.

**Sec. 1-37. - POSSESSION OR PRESERVATION PENDING LITIGATION.**

- 1) After the special commissioners have made an award, the city may take possession of the condemned property pending the results of further litigation if the city pays to the owner of the going concern the amount of damages and costs awarded by the special commissioners or deposits that amount of money with the court subject to the order of the going concern owner.
- 2) If the court finds it necessary to preserve the value of the going concern or to ensure public safety or to ensure uninterrupted electric utility service during the pendency of condemnation proceedings after compensation has been determined by special commissioners, a judge, or jury, the court may require regular reporting and may appoint a receiver to manage, operate and preserve the going concern, the cost of which shall be paid by the city unless otherwise agreed.

**Sec. 1-38. - AUTHORITY OF COURTS.**

Except as otherwise provided otherwise, laws that formerly governed or currently govern the performance of functions by county clerks and judges in eminent domain proceedings under Chapter 21, TEXAS PROPERTY CODE, are applicable to the clerks and judges of district courts.

**Sec. 1-39. - PRODUCTION OF INFORMATION.**

- 1) The city is required to produce information as provided by this section if the information is:
  - a) requested by a person who owns a going concern that is the subject of a proposed or existing eminent domain proceeding; and
  - b) related to the taking of the person's going concern by the city through the use of eminent domain.
- 2) The city is required under this section only to produce information relating to the condemnation of the specific going concern owned by the requestor as described in the request. A request under this section must contain sufficient details to allow the city to identify the going concern to which the information is sought.
- 3) The city shall respond to a request in accordance with the Texas Rules of Civil Procedure as if the request was made in a matter pending before a state district court.
- 4) Exceptions to disclosure provided by this chapter and the Texas Rules of Civil Procedure apply to the disclosure of information under this section.
- 5) Jurisdiction to enforce the provisions of this section resides in:
  - a) The court in which the condemnation was initiated; or
  - b) if the condemnation proceeding has not been initiated:
    - i) a court that would have jurisdiction over a proceeding to condemn the requestor's property; or
    - ii) a court with eminent domain jurisdiction in a county in which the going concern operates or has substantial contact.

**SUBCHAPTER C. DAMAGES AND COSTS**

**Sec. 1-40. - EVIDENCE.**

As the basis for assessing actual damages to a going concern owner from a condemnation, the special commissioners shall admit evidence on the value of the going concern being condemned.

**Sec. 1-41. - ASSESSMENT OF DAMAGES.**

- 1) The special commissioners shall assess damages in a condemnation proceeding according to the evidence presented at the hearing.
- 2) The damage to the going concern owner is the local market value of the going concern at the time of the special commissioners' hearing.

**Sec. 1-42. - DAMAGES FROM TEMPORARY POSSESSION.**

- 1) If a court finally determines that the city has taken possession of the going concern pending litigation did not have the right to condemn the going concern, the court may award to the going concern owner the damages that resulted from the temporary possession.
- 2) The court may order the payment of damages awarded under this section from the award or other money deposited with the court.
- 3) However, if the award paid to or appropriated by the going concern owner exceeds the court's final determination of the value of the going concern, the court shall order the going concern owner to return the excess to the city.

**Sec. 1-43. - ASSESSMENT OF COSTS AND FEES.**

- 1) Special commissioners may adjudge the court costs of an eminent domain proceeding against any party. If the commissioners award greater damages than the city offered to pay before the proceedings began or if the decision of the commissioners is appealed and a court awards greater damages than the commissioners awarded, the city shall pay all court costs. If the commissioners' award or the court's determination of the damages is less than or equal to the amount the city offered before proceedings began, the going concern owner shall pay the court costs.
- 2) The city shall pay the initial cost of serving a going concern owner with notice of a condemnation proceeding. If the going concern owner is ordered to pay the costs of the proceeding, the city may recover the expense of notice from the going concern owner as part of the costs.

3) If a court hearing a suit under this chapter determines that the city did not make a bona fide offer to acquire the going concern from the going concern owner voluntarily as required by Section 1-28, the court shall abate the suit, order the city to make a bona fide offer, and order the city to pay all court costs as provided by Subsection (1), above.

**Sec. 1-44. - STATEMENT OF DAMAGES AND COSTS.**

1) After the special commissioners in an eminent domain proceeding have assessed the damages, they shall:

- make a written statement of their decision stating the damages, date it, sign it, and file it and all other papers connected with the proceeding with the court on the day the decision is made or on the next working day after the day the decision is made; and,
- make and sign a written statement of the accrued costs of the proceeding, naming the party against whom the costs are adjudged, and file the statement with the court.

**Sec. 1-45. - NOTICE OF DECISION OF SPECIAL COMMISSIONERS.**

The judge of a court hearing a proceeding under this chapter shall inform the clerk of the court as to a decision by the special commissioners on the day the decision is filed or on the next working day after the day the decision is filed. Not later than the next working day after the day the decision is filed, the clerk shall send notice of the decision by certified or registered United States mail, return receipt requested, to the parties in the proceeding, or to their attorneys of record, at their addresses of record.

**SUBCHAPTER D. JUDGMENT**

**Sec. 1-46. - JUDGMENT ON COMMISSIONERS' FINDINGS.**

If no party in a condemnation proceeding to acquire a going concern files timely objections to the findings of the special commissioners, the judge of the court that has jurisdiction of the proceeding shall adopt the commissioners' findings as the judgment of the court, enter judgment as provided in Section 1-52, below, record the judgment in the minutes of the court, and issue the process necessary to enforce the judgment.

**Sec. 1-47. - WRIT OF POSSESSION.**

If the city has taken possession of the going concern pending litigation and the court finally decides that the city does not have the right to condemn the going concern, the court shall order the city to surrender possession of the going concern and issue a writ of possession to the owner of the going concern.

**Sec. 1-48. - APPEAL.**

- The appeal of a judgment in a condemnation proceeding is as in other civil cases.
- A court hearing an appeal from the decision of a trial court in a condemnation proceeding may not suspend the judgment of the trial court pending the appeal.

**Sec. 1-49. - INJUNCTIVE RELIEF.**

A court hearing a suit covered by Section 1-23 of this code may grant injunctive relief under the rules of equity.

**Sec. 1-50. - VESTED INTEREST.**

A judgment of a court under this chapter vests a right granted to the city.

**Sec. 1-51. - NO WAIVER OF SOVEREIGN IMMUNITY**

The city retains governmental immunity, either in administrative, judicial, or other legal proceedings or in carrying out any other action associated with eminent domain, when it exercises the power of eminent domain to condemn a going concern, to the extent allowed by law, including without limitation any liability for payment of legal fees, expert witness fees, and other expenses of another party to the legal proceedings.

**Sec. 1-52. - FORM OF JUDGMENT**

- A judgment in an action brought on this Ordinance that awards the city ownership of the going concern upon payment of just and adequate compensation shall provide:
  - Payment by the city to the going concern owner of the amount of damages and court costs awarded by the judgment or the deposit of that amount of money with the court subject to the order of the going concern owner shall be made within 180 days of the latter to occur of:
    - the judgment becomes final and is not subject to further judicial appeal; and,
    - there is a final determination by the necessary regulatory authorities that allows the acquisition to move forward.
  - The judgment is vacated and the acquisition is dismissed if:
    - on appeal there is a final determination that the acquisition is not allowed to move forward;
    - there is a final determination by the necessary regulatory authorities that does not allow the acquisition to move forward;
    - the city does not pay to the going concern owner the amount of damages and court costs awarded by the judgment or deposit that amount of money with the court subject to the order of the going concern owner within the 180 days period set out in Subsection (l)(a), immediately above.
  - The city is to diligently pursue all necessary regulatory approvals necessary to allow the acquisition to move forward once the Judgment becomes final and not subject to further judicial appeal.

- d) The owner of the going concern:
  - i) shall not destroy, damage or transfer out value of the going concern;
  - ii) shall, subject to any receivership or conservatorship order by the court pursuant to Subsection 1-37(2), above, continue to operate the going concern in a manner that is consistent with the historical and customary operation of the going concern;
  - iii) shall not sell equity interests in the entity and transactions which would encumber or divest assets not in the ordinary course of business; and,
  - iv) shall retain in an interest-bearing account, and not pay out, any all stockholder or other dividends or other payments of net profits and these funds shall transfer to the city as part of its acquisition.
- e) The judgment shall accrue interest as provided by law for judgments.

## SECTION 2 SEVERABILITY CLAUSE

- 1) Should any section, subsection, sentence, clause, phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The city hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.
- 2) Should any section, subsection, sentence, clause, phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the city manager, mayor, and attorney are instructed to bring back to council for discussion and action a revision to this Ordinance that complies with law and as closely as legally possible effects the processes and scope of this Ordinance.

## SECTION 3 EFFECTIVE DATE

**That**, a descriptive caption shall be published once a week for two consecutive weeks in a newspaper of general circulation published in the City of Perryton, and such ordinance shall become effective ten (10) days after the date of its last publication.

**PASSED, APPROVED, AND ADOPTED**, on this the 21<sup>st</sup> day of October 2025, at a regular meeting of the City Council of the City of Perryton, Texas which meeting was held in compliance with the Open Meetings Act, Tex Gov't Code, §551.001, et.seq. at which meeting a quorum was present and voting.

\_\_\_\_\_  
/s/ Kerry Symons  
Kerry Symons, Mayor

ATTEST:

\_\_\_\_\_  
/s/ Kim Fowler  
Kim Fowler, City Secretary

**REVIEW FINANCIAL REPORTS FOR THE PREVIOUS MONTH:** Mayor Symons asked that the financials be reviewed by Blasingame at the next council meeting.

**MOTION TO ADJOURN: THERE BEING NO FURTHER BUSINESS, COUNCILMAN BRAD KILE MADE A MOTION TO ADJOURN AT 6:53 P.M., SECONDED BY COUNCILMAN BRADY BURDICK. ALL VOTED AYE, MOTION CARRIED.**

\_\_\_\_\_  
/s/ Kerry Symons  
Kerry Symons, Mayor

ATTEST:

\_\_\_\_\_  
/s/ Kim Fowler  
Kim Fowler, City Secretary