

A regular meeting of the Mayor and City Council of the City of Waxahachie, Texas was held in the Council Chamber at City Hall, 401 S. Rogers on Tuesday, September 8, 2020 at 7:00 p.m.

Councilmembers Preset: David Hill, Mayor
Mary Lou Shipley, Mayor Pro Tem
Chuck Beatty, Councilmember
Kevin Strength, Councilmember
Melissa Olson, Councilmember

Others Present: Michael Scott, City Manager
Albert Lawrence, Assistant City Manager
Tommy Ludwig, Assistant City Manager
Robert Brown, City Attorney
Lori Cartwright, City Secretary

1. Call to Order

Mayor David Hill called the meeting to order.

2. Invocation

3. Pledge of Allegiance and Texas Pledge of Allegiance

City Manager Michael Scott gave the invocation and led the Pledge of Allegiance and the Texas Pledge of Allegiance.

4. Public Comments

Mr. Paul Christenson, 110 Williams Street, Waxahachie, addressed the proposed solicitation Ordinance on the agenda and stated it is unconstitutional to require a permit for political speech.

Mr. Chris Wright, 808 West Marvin, Waxahachie, addressed the old Baylor Scott and White hospital noting there are a number of buildings that go along with the lot. He stated once the properties are changed, tax monies will come in. Mr. Wright spoke in favor of the new tax rate.

Mr. Alan Fox, 327 University, Waxahachie, spoke in favor of the new tax rate.

Mr. Forrest John, 1005 East Marvin Avenue, Waxahachie, thanked City Council for their service and spoke in favor of the new tax rate. He thanked City Manager Michael Scott and city staff for the improvements across the city.

5. Consent Agenda

- a. Minutes of the City Council meeting of August 17, 2020
- b. Minutes of the City Council briefing of August 17, 2020
- c. Minutes of the City Council special meeting of September 1, 2020
- d. Amend Resolution No. 1292 to extend the FM 813 closure from September 9, 2020 to September 15, 2020

Action:

Councilmember Chuck Beatty moved to approve items a. through d. on the Consent Agenda. Councilmember Kevin Strength seconded, All Ayes.

6. **Continue Public Hearing on a request by Brenden Determann, BFD Managing & Consulting LLC, for a Zoning Change from a Planned Development-General Retail zoning district to Single Family Residential-3, located N of 809 MLK (being a portion of Property ID 205458) - Owner: GIBSON & GIBSON LLC (ZDC-92-2020)**

Mayor Hill announced the applicant withdrew ZDC-92-2020.

7. **Consider proposed Ordinance approving ZDC-92-2020**

Action:

None

8. **Continue Public Hearing on a request by Terry Nay, The Wash on Brown, for a Specific Use Permit (SUP) for Auto Laundry or Car Wash use within a General Retail zoning district located at 2201 Brown Street (Property ID 278472) - Owner: THE NAY COMPANY INC (ZDC-87-2020)**

Mayor Hill continued the Public Hearing.

Planning Director Shon Brooks reported the applicant requested to increase landscaping in lieu of a masonry screening wall that had been on the original plan. Staff recommended approval.

There being no others to speak for or against ZDC-87-2020, Mayor Hill closed the Public Hearing.

9. **Consider proposed Ordinance approving ZDC-87-2020**

ORDINANCE NO. 3208

AN AMENDMENT TO ORDINANCE 3019 AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO PERMIT AN AUTO LAUNDRY OR CAR WASH USE WITHIN A GENERAL RETAIL (GR) ZONING DISTRICT, LOCATED AT 2201 BROWN STREET, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING LOT 1, BLOCK A OF THE WAXAHACHIE CAR WASH ADDITION, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.

Action:

Councilmember Kevin Strength moved to approve Ordinance No. 3208 as presented. Councilmember Melissa Olson seconded, All Ayes.

10. **Consider request by Tim Jackson, Texas Reality Capture & Surveying, LLC., for a Plat of Pecan Tree Meadows for seven (7) residential lots being 14.574 acres situated in the E.C. School Land Survey, Abstract 328 (Property ID 259093) in the Extra Territorial Jurisdiction – Owner: Timothy Crane (SUB-000080-2020)**

Mr. Brooks reported the applicant petitioned a hardship waiver for inadequate fire flow to the proposed site. He stated the Fire Marshall reviewed the plans and provided his recommendation of approval for the petition of hardship waiver. Staff recommended approval.

Action:

Mayor Pro Tem Mary Lou Shipley moved to approve a request by Tim Jackson, Texas Reality Capture & Surveying, LLC., for a Plat of Pecan Tree Meadows for seven (7) residential lots being 14.574 acres situated in the E.C. School Land Survey, Abstract 328 (Property ID 259093) in the Extra Territorial Jurisdiction – Owner: Timothy Crane (SUB-000080-2020). Councilmember Melissa Olson seconded, All Ayes.

- 11. Consider request by Dalton Bradbury, Acker Construction, for a detailed Site Plan Review for proposed Office, Professional, and Administrative uses located within a Planned Development-1-Commercial zoning district at 1340 and 1348 W. US Highway 287 Bypass (Property ID 238267) – Owner: BARBELL REAL ESTATE LLC AND JAMES BELLER (SP-101-2020)**

Mr. Brooks reported the applicant proposes to construct two multi-tenant office buildings on 1.381 acres. Staff recommended approval.

Action:

Councilmember Chuck Beatty moved to approve a request by Dalton Bradbury, Acker Construction, for a detailed Site Plan Review for proposed Office, Professional, and Administrative uses located within a Planned Development-1-Commercial zoning district at 1340 and 1348 W. US Highway 287 Bypass (Property ID 238267) – Owner: BARBELL REAL ESTATE LLC AND JAMES BELLER (SP-101-2020). Councilmember Kevin Strength seconded, All Ayes.

- 12. Consider Development Agreement for SP-101-2020**

Action:

Councilmember Chuck Beatty moved to approve a Development Agreement for SP-101-2020. Councilmember Kevin Strength seconded, All Ayes.

- 13. Consider award of a bid and associated project contingency to Reynolds Asphalt & Construction Co. for the 2020 Street Rehabilitation Program**

Assistant Director of Public Works Jim Lockart reported bids were received for the 2020 Street Rehabilitation Program and recommended award of bid to Reynolds Asphalt & Construction Company in the amount of \$543,303.00. Staff recommended to approve funding for a project contingency in the amount of \$30,000.00.

Action:

Councilmember Chuck Beatty moved to award bid and associated project contingency to Reynolds Asphalt & Construction Co. for the 2020 Street Rehabilitation Program as presented. Councilmember Kevin Strength seconded, All Ayes.

14. Consider award of a bid and associated project contingency to Wilson Contractor Services, LLC for the construction of the Lower Mustang Creek Parallel Force Main

Utilities Director David Bailey reported bids were received for the construction of the Lower Mustang Creek Parallel Force Main and recommended award of bid to Wilson Contractors LLP in the amount of \$2,404,205.95. Staff recommended to approve funding for a project contingency in the amount of \$50,000.00.

Action:

Mayor Pro Tem Mary Lou Shipley moved to award bid and associated project contingency to Wilson Contractor Services, LLC for the construction of the Lower Mustang Creek Parallel Force Main as presented. Councilmember Melissa Olson seconded, All Ayes.

15. Consider award of a service contract to Waste Connections for the disposal for bio-solids from the Wastewater Treatment Plant

Assistant City Manager Tommy Ludwig stated bio-solids from the Wastewater Treatment Plant will be contracted with Waste Connections. Staff recommended separating this service from the general trash recycling agreement.

Action:

Councilmember Kevin Strength moved to award a service contract to Waste Connections for the disposal for bio-solids from the Wastewater Treatment Plant as presented. Councilmember Chuck Beatty seconded, All Ayes.

16. Consider proposed Ordinance amending the Code of Ordinances to modify and adopt new regulations on solicitation activities by repealing existing Chapter 23, “Peddlers” and replacing it with a new Chapter 23, “Solicitation Activities”

City Secretary Lori Cartwright stated the Ordinance reflects solicitation applications and the applications will be processed at the Waxahachie Police Department.

City Attorney Robert Brown stated the Ordinance does not require a permit for political speech. He explained it does have a section noting if you have a no solicitors sign, and/or no trespassing sign that you have the right from anyone coming on to your property and coming to your door. Mr. Brown stated while there is a constitutional right to politic, one person’s constitutional right ends when another person’s constitutional right begins and particularly in Texas noting one of the key fundamental of constitutional rights is the right to own property. He explained, if you don’t want people coming to your door, you have an absolute constitutional right to have a sign that depicts no trespassing and/or no solicitation. Mr. Brown stated the proposed ordinance recognizes that and it is constitutional. He supported the passing of the proposed Ordinance.

ORDINANCE NO. 3209

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF WAXAHACHIE, TEXAS, TO MODIFY AND ADOPT NEW REGULATIONS ON SOLICITATION

ACTIVITIES BY REPEALING EXISTING CHAPTER 23, “PEDDLERS,” AND REPLACING IT WITH A NEW CHAPTER 23, “SOLICITATION ACTIVITIES”; PROVIDING A PENALTY CLAUSE; PROVIDING A SEVERABILITY CLAUSE; REPEALING ALL CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

Action:

Councilmember Kevin Strength moved to approve Ordinance No. 3209. Mayor Pro Tem Mary Lou Shipley seconded, All Ayes.

- 17. Consider proposed Ordinance approving revised budget figures for fiscal year 2019-2020 and approving the budget for fiscal year 2020-2021**

ORDINANCE NO. 3210

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS, APPROVING REVISED BUDGET FIGURES FOR FISCAL YEAR 2019-2020, FUNDS APPROPRIATED FOR STREET MAINTENANCE AND PROFESSIONAL SERVICES WILL BE USED FOR THAT PURPOSE, EITHER BY ENCUMBRANCE OR BY TRANSFER TO CAPITAL PROJECT FUND FOR STREETS; APPROVING AND ADOPTING THE BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2020 AND TERMINATING SEPTEMBER 30, 2021, AND MAKING APPROPRIATIONS FOR EACH DEPARTMENT; REPEALING CONFLICTING ORDINANCES; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

Action:

Councilmember Chuck Beatty moved to approve Ordinance No. 3210. Mayor Pro Tem Mary Lou Shipley seconded, All Ayes.

- 18. Consider proposed Ordinance approving the Water and Wastewater Budget for fiscal year 2020-2021**

Mr. Scott reported the proposed water rate is an increase of 1.5% and the wastewater rate an increase of 2.5% as constructed. He explained this fund is self-supporting through user fees. Mayor Hill stated the fund only raises as much money necessary associated with these funds to pay overhead, operations, and debt service.

ORDINANCE NO. 3211

AN ORDINANCE ADOPTING THE BUDGET, MAKING APPROPRIATIONS FOR THE SUPPORT OF THE CITY OF WAXAHACHIE’S WATER AND WASTEWATER OPERATIONS FOR THE PERIOD BEGINNING OCTOBER 1, 2020 AND ENDING SEPTEMBER 30, 2021 AND DECLARING AN EMERGENCY.

Action:

Councilmember Chuck Beatty moved to approve Ordinance No. 3211. Mayor Pro Tem Mary Lou Shipley seconded, All Ayes.

19. Consider proposed Ordinance amending Water and Wastewater fees and setting an effective date of October 1, 2020

Mr. Scott reported the fees are associated with each operation and the proposed Ordinance requires City Council to ratify the associated fee structure.

ORDINANCE NO. 3212

AN ORDINANCE AMENDING WATER AND WASTEWATER FEES, BY AMENDING VARIOUS SECTIONS OF THE CODE OF ORDINANCES, CITY OF WAXAHACHIE, AND SETTING AN EFFECTIVE DATE OF OCTOBER 1, 2020 AND DECLARING AN EMERGENCY.

Action:

Councilmember Chuck Beatty moved to approve Ordinance No. 3212. Councilmember Kevin Strength seconded, All Ayes.

20. Consider proposed Ordinance approving the Robert W. Sokoll Water Treatment Plant Budget for fiscal year 2020-2021

Mr. Scott stated the city has a 50/50 partnership with Rockett SUD for the operation of the plant and is constructed to break even every year. He explained the adoption of the budget is required to run the operation and pay the debt service associated with it.

ORDINANCE NO. 3213

AN ORDINANCE ADOPTING THE BUDGET, MAKING APPROPRIATIONS FOR THE SUPPORT OF THE SOKOLL WATER TREATMENT PLANT JOINT VENTURE FOR THE PERIOD BEGINNING OCTOBER 1, 2020 AND ENDING SEPTEMBER 30, 2021 AND DECLARING AN EMERGENCY.

Action:

Mayor Pro Tem Mary Lou Shipley moved to approve Ordinance No. 3213. Councilmember Melissa Olson seconded, All Ayes.

21. Consider proposed Ordinance approving the Refuse Service Fund; Hotel Tax Fund; Waxahachie Community Development Corporation Budget; and, Interest and Sinking Fund for fiscal year 2020-2021

Mr. Scott reported the proposed Ordinance has smaller funds in the operation of the city and require budget approval.

ORDINANCE NO. 3214

AN ORDINANCE MAKING APPROPRIATIONS FOR THE SUPPORT OF THE CITY GOVERNMENT OF THE CITY OF WAXAHACHIE FOR THE FISCAL YEAR

BEGINNING OCTOBER 1, 2020 AND ENDING SEPTEMBER 30, 2021 AND DECLARING AN EFFECTIVE DATE.

Action:

Councilmember Kevin Strength moved to approve Ordinance No. 3214. Councilmember Chuck Beatty seconded, All Ayes.

22. Consider a motion to ratify the property tax revenue increase reflected in the Fiscal Year 2020-2021 budget in accordance with the Texas Local Government Code

Finance Director Chad Tustison stated ratifying the property tax revenue is related to state law depicting a city that raises more revenue in property tax over the prior year and requires a separate vote on ratifying that increase in the budget. He explained this is strictly a state requirement and is not related to the tax rate.

Action:

Councilmember Chuck Beatty moved to ratify the property tax increase reflected in the budget. Mayor Pro Tem Mary Lou Shipley seconded, All Ayes.

23. Consider proposed Ordinance adopting the Tax Rate for fiscal year 2020-2021

Mr. Tustison reviewed the proposed Ordinance and in summary stated the 4.7% tax increase is not referencing the current rate and the property tax rate is decreasing 2 cents from the current rate. The average resident's tax bill will increase approximately 2.6% when you take into account the value increases and the tax rate decreases. He stated this tax rate is the lowest of our peers.

ORDINANCE NO. 3215

AN ORDINANCE LEVYING FOR THE USE AND SUPPORT OF THE MUNICIPAL GOVERNMENT OF THE CITY OF WAXAHACHIE, TEXAS, AND PROVIDING FOR THE INTEREST AND SINKING FUND FOR FISCAL YEAR 2021 AND APPORTIONING EACH LEVY FOR THE SPECIFIC PURPOSE.

Action:

Mayor Pro Tem Mary Lou Shipley stated with the understanding that the City is not increasing the tax rate but the amount of revenue from the property tax has increased so that even applying a lower rate than last year the amount received by the City produces more revenue but we are statutorily required to use the following language:

"I move that the property tax rate be increased by the adoption of a tax rate of 0.66, which is effectively a 4.7% percent increase in the tax rate."

Councilmember Kevin Strength seconded, All Ayes.

24. Consider proposed Ordinance re-establishing classified positions under Civil Service

Mr. Scott reported total staffing for the Waxahachie Fire Department is 64 and total staffing for the Waxahachie Police Department is 74.

ORDINANCE NO. 3216

AN ORDINANCE OF THE CITY OF WAXAHACHIE, TEXAS, ESTABLISHING AND RE-ESTABLISHING CLASSIFIED POSITIONS UNDER CIVIL SERVICE IN THE FIRE AND POLICE DEPARTMENTS, REPEALING ALL ORDINANCES IN CONFLICT HERewith; AND PROVIDING AN EFFECTIVE DATE.

Action:

Councilmember Kevin Strength moved to approve Ordinance No. 3216. Councilmember Chuck Beatty seconded, All Ayes.

25. Comments by Mayor, City Council, City Attorney and City Manager

Councilmember Kevin Strength thanked city staff and all their hard work putting the budget together. He stated it is a good plan and he is proud of it and hopes the citizens will be too.

Councilmember Chuck Beatty stated years ago the citizens of Waxahachie wanted a Civic Center and Sports Complex and beautification in the city. He explained it was placed on the ballot to have ½ of one cent tax increase noting it passed and the public is enjoying the amenities and beautification. Councilmember Beatty stated enhancements are basically funded through debt service and explained people that move into the city help pay for the debt we incur, not just the people that are already here.

City Manager Michael Scott thanked City Council for their leadership in getting us through the budget process and endeavor. He recognized Finance Director Chad Tustison and his team, Assistant City Managers Albert Lawrence and Tommy Ludwig, Assistant to City Manager Chelsey Gordon and a number of Directors and assistants for their work on the budget.

Mayor Pro Tem Mary Lou Shipley stated she appreciates the work of city staff noting our city is in such a good position and we are moving forward and in the right direction and that is a real tribute not only to the citizens of Waxahachie but most particular to the staff that we have.

Councilmember Melissa Olson noted while she has been out spoken on the tax rate and it didn't go down as far as she would have personally liked to see it go, what we approved tonight is the first tax decrease since 2011. She stated it went in the right direction and took a lot of people to make that happen and thanked everyone who helped make that happen and their hard work.

City Attorney Robert Brown spoke on the new legislative language required to approve the tax rate. He explained in summary the tax rate has gone down and the reason it is called an increase is because the taxable value has gone up because we had so much development to further the economy so it's really a good thing but unfortunately legislature makes us call it a tax increase when it is not a tax increase.

Mayor David Hill thanked city staff for their work getting the budget together. He stated it is a good budget and projects can continue. Mayor Hill thanked City Council for their support on the budget.

26. Adjourn

There being no further business, the meeting adjourned at 7:54 p.m.

Respectfully submitted,

Lori Cartwright
City Secretary