

City Council  
April 19, 2021

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 Monday, April 19, 2021 at 7:00 p.m.

Council Members Present: David Hill, Mayor, Council Member Place 1  
Mary Lou Shipley, Mayor Pro Tem  
Chuck Beatty, Council Member  
Melissa Olson, Council Member Place 3  
Doug Barnes, Council Member Place 2

Others Present: Michael Scott, City Manager  
Albert Lawrence, Assistant City Manager  
Tommy Ludwig, Assistant City Manager  
Robert Brown, City Attorney  
Amber Villarreal, Assistant 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**

None

**5. Consent Agenda**

- a. Minutes of the City Council meeting of April 5, 2021
- b. Minutes of the City Council briefing of April 5, 2021
- c. Minutes of the City Council Retreat of April 13, 2021
- d. Event application for Pyrotecnico Training on April 24, 2021
- e. Event application for Classic Truck Nationals on June 12, 2021
- f. Crape Myrtle Fireworks Display to be held July 3, 2021
- g. Event application for C10s in the Park on September 18, 2021
- h. Budget Adjustment for General Items
- i. Approve funding for Wags-A-Hachie Dog Park Redevelopment
- j. Waxahachie Community Development Corporation Finance Report for year ended September 30, 2020

**Action:**

*Mayor Pro Tem Mary Lou Shipley moved to approve items a. through j. on the Consent Agenda. Council Member Melissa Olson seconded, All Ayes.*

6. **Public Hearing on a request by Mathew Williamson, MBW Engineering, for a Zoning Change from a Multiple Family-1 zoning district to Planned Development-Multiple Family-2, located just South of 865 Cantrell Street (being Property ID 142414) - Owner: WM C BUSTER LAND DEVELOPMENT LLC (ZDC-42-2021)**

Mayor Hill opened the Public Hearing and announced the applicant requested to continue ZDC-42-2021 to the May 3, 2021 City Council meeting.

7. **Consider proposed Ordinance approving ZDC-42-2021**

**Action:**

*Council Member Chuck Beatty moved to continue the Public Hearing on a request by Mathew Williamson, MBW Engineering, for a Zoning Change from a Multiple Family-1 zoning district to Planned Development-Multiple Family-2, located just South of 865 Cantrell Street (being Property ID 142414) - Owner: WM C BUSTER LAND DEVELOPMENT LLC (ZDC-42-2021) to the May 3, 2021 City Council meeting. Mayor Pro Tem Mary Lou Shipley seconded, All Ayes.*

8. **Public Hearing on a request by Ron Barson, Ledbetter Real Estate LTD, for a Zoning Change from Planned Development-37-General Retail to Planned Development-General Retail, located at 1014 Ferris Avenue, Suite 106 (being a portion of Property ID 176876) - Owner: LEDBETTER REAL ESTATE LTD (ZDC-43-2021)**

Mayor Hill opened the Public Hearing.

Planning Director Shon Brooks reviewed the case noting the applicant is requesting approval of a Planned Development to allow for storage of wine within an existing building (1014 Ferris Avenue, Suite 106) and staff recommended approval per the following staff comments:

1. If the applicant's approved use exceeds two years from the City Council/Ordinance approval date, staff recommends that the applicant come back to City Council to amend the Planned Development to allow for more time.

There being no others to speak for or against ZDC-43-2021, Mayor Hill closed the Public Hearing.

9. **Consider proposed Ordinance approving ZDC-43-2021**

**ORDINANCE NO. 3263**

**AN ORDINANCE AUTHORIZING A ZONING CHANGE FROM PLANNED DEVELOPMENT-37-GENERAL RETAIL (PD-37-GR) TO PLANNED DEVELOPMENT-GENERAL RETAIL (PD-GR), LOCATED AT 1014 FERRIS AVENUE, SUITE 106, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING 0.576 ACRES KNOWN AS A PORTION OF PROPERTY ID 176876 OF LOT 1; 2; 4 BLOCK 17 WILLIAMS-REV, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

**Action:**

*Council Member Doug Barnes moved to approve Ordinance No. 3263. Council Member Chuck Beatty seconded, All Ayes.*

- 10. Public Hearing on a request by Bryan Hull, Real Estate Buy Design, for a Zoning Change from a Light Industrial-1 and Future Development zoning district to Planned Development-Light Industrial-1, located at 4743 N Interstate 35 (being Property ID 188458) - Owner: CARLINGFORD PROPERTIES LLC (ZDC-25-2021)**

Mayor Hill opened the Public Hearing.

Mr. Brooks reviewed the case noting the applicant is requesting approval of a Planned Development to allow for outside storage and outdoor display and staff recommended approval per recommendation of the Planning and Zoning Commission, the following recommendations should be completed prior to receiving an official Certificate of Occupancy:

1. The operation of crushing will not be allowed at the property.
2. The front portion of the property shall be concrete.
3. Staff suggests that any pavement added in the future be concrete.
4. 6ft. ornamental fencing with landscaping should be provided along the front and side(s) of the property.

There being no others to speak for or against ZDC-25-2021, Mayor Hill closed the Public Hearing.

- 11. Consider proposed Ordinance approving ZDC-25-2021**

**ORDINANCE NO. 3264**

**AN ORDINANCE AUTHORIZING A ZONING CHANGE FROM LIGHT INDUSTRIAL-1 (LI1) AND FUTURE DEVELOPMENT (FD) TO PLANNED DEVELOPMENT LIGHT INDUSTRIAL-1 (PD-LI1), LOCATED AT 4743 N INTERSTATE HIGHWAY 35, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING 7.081 ACRES KNOWN AS A PORTION OF PROPERTY ID 188458 OF LOT 1, BLOCK A ESPINOZA ADDITION, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

**Action:**

*Council Member Melissa Olson moved to approve Ordinance No. 3264 subject to staff comments. Mayor Pro Tem Mary Lou Shipley seconded, All Ayes.*

- 12. Continue Public Hearing on a request by Ed Fleming, Walton Global Holdings, LTD, for a Zoning Change from a Future Development and Planned Development (Ordinance #2330) zoning district to a Planned Development-Mixed Use Residential (MUR) with Concept Plan, located South of FM 875, West of I-35, North of FM 1446, and East of Lone Elm Road (Property IDs 182520, 264568, 263786, 192306, 234203, 179534, 187960, 179468) - Owner: WALTON TEXAS LP (ZDC-7-2021)**

Mayor Hill continued the Public Hearing.

Mr. Brooks reviewed the case noting the applicant intends to create a Planned Development to allow for single-family residential, multi-family residential, mixed use residential, mixed use commercial, and commercial/retail on 2,813 acres. He reviewed the revised concept plan with requested changes from staff, the Planning & Zoning Commission, and citizens. He noted staff recommended approval as presented.

Mr. Ed Fleming, 500 Nighttime Avenue, Tampa, Florida, thanked City Council, the Planning & Zoning Commission, and city staff for their work on this development. He explained the development will be a mix of properties, as a full service master planned community. He reported the plan was revised to take into consideration the comments by city staff, Planning & Zoning Commission, and citizens. He highlighted the changes to include phased lot development, increased alleys, access points, and amenities.

Mr. Aaron Duncan, 2000 Mesa, Dallas, Texas, reviewed the project history beginning in 2005. He explained the revised plan has a reduction in density, moved connectivity away from parcel boundaries on Brookside, improved traditional neighborhood design, and updated architectural standards.

Mr. Alan Fox, 327 University Avenue, Waxahachie, Texas, inquired about access points to get in and out of the development and staff noted there will be 7 major access points.

Those who spoke in opposition:

Ms. Kathy Cachel, 405 Brookside Road, Waxahachie, Texas

Ms. Cheryl Mowery, 951 Lone Elm Road, Waxahachie, Texas

Mr. Rodney Welch, 1670 Lone Elm, Waxahachie, Texas, inquired about the entrances into the community off of Lone Elm Road and staff reviewed the proposed roadways.

There being no others to speak for or against ZDC-7-2021, Mayor Hill closed the Public Hearing.

Council Member Doug Barnes inquired about the relocation of Parcel 6 and Mr. Duncan noted it was moved closer to I-35 due to possible future development on the site that is not owned by Walton. Mr. Barnes inquired about the necessity of the Brookside Bridge entrance and Mr. Fleming noted a requirement of the approval is required acquisition of the access easement. Council Member Barnes also inquired about types of screening to the Brookside Road property owners and Mr. Duncan noted standards are set in the Planned Development document.

Mayor Hill reported he spoke with Mr. Terry Nay addressing his concerns of access to his property and future water studies associated with the development.

### **13. Consider proposed Ordinance approving ZDC-7-2021**

#### **ORDINANCE NO. 3265**

**AN ORDINANCE AUTHORIZING A ZONING CHANGE FROM PLANNED DEVELOPMENT (PD) AND FUTURE DEVELOPMENT (FD) TO PLANNED DEVELOPMENT-MIXED USE RESIDENTIAL (PD-MUR), LOCATED SOUTH OF FM**

**875, WEST OF I-35, NORTH OF FM 1446, AND EAST OF LONE ELM ROAD, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING 2,813 ACRES KNOWN AS A PORTION OF PROPERTY ID 182520, 264568, 263786, 192306, 234203, 179534, 187960, 179468, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

**Action:**

*Council Member Melissa Olson moved to approve Ordinance No. 3265 subject to staff comments. Council Member Chuck Beatty seconded, All Ayes.*

**14. Consider authorizing the City Manager to execute the Development Agreement for ZDC-7-2021**

**Action:**

*Mayor Pro Tem Mary Lou Shipley moved to authorize the City Manager to execute the Development Agreement for ZDC-7-2021. Council Member Doug Barnes seconded, All Ayes.*

**15. Continue the Public Hearing for a Resolution of the City of Waxahachie, Texas, Authorizing and Creating the Emory Lakes Public Improvement District in accordance with Chapter 372 of the Texas Local Government Code**

Mayor Hill continued the Public Hearing for a Resolution of the City of Waxahachie, Texas, Authorizing and Creating the Emory Lakes Public Improvement District in accordance with Chapter 372 of the Texas Local Government Code.

Mr. Fleming reviewed the proposed Emory Lakes Public Improvement District (PID) noting this is a reimbursement PID where the developer will pay for infrastructure and development up front and then will be reimbursed.

Mr. Rick Rosenberg, DPGF (PID Consultant), explained there will be no cost to the city, the assessments will pay for basic infrastructure, there will be no impact on bond capacity for the city, the development will have a positive impact on the city for ad valorem taxes, and there will be an excellent disclosure to PID property owners regarding the assessment cost of .42 cents/per \$100 valuation.

Ms. Geneva Alcala, 411 Brookside Road, inquired about freezing current taxes and property valuations for residents near the development.

There being no others to speak for or against the Public Hearing for a Resolution of the City of Waxahachie, Texas, Authorizing and Creating the Emory Lakes Public Improvement District in accordance with Chapter 372 of the Texas Local Government Code, Mayor Hill closed the Public Hearing.

**16. Discussion and Action to approve a Resolution of the City of Waxahachie, Texas, Authorizing and Creating the Emory Lakes Public Improvement District in accordance with Chapter 372 of the Texas Local Government Code**

**RESOLUTION NO. 1308**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS AUTHORIZING AND CREATING THE EMORY LAKES PUBLIC IMPROVEMENT DISTRICT IN ACCORDANCE WITH CHAPTER 372 OF THE TEXAS LOCAL GOVERNMENT CODE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR RELATED MATTERS; AND PROVIDING AN EFFECTIVE DATE.**

**Action:**

*Council Member Chuck Beatty moved to approve Resolution No. 1308. Council Member Doug Barnes seconded, All Ayes.*

- 17. Hold Public Hearing to consider proposed assessments to be levied against property within Improvement Area #2 of the North Grove Public Improvement District pursuant to the provisions of Chapter 372 of the Texas Local Government Code, as amended. All written or oral objections on the proposed assessment within the District will be considered at the public hearing**

Mayor Hill opened the Public Hearing to consider proposed assessments to be levied against property within Improvement Area #2 of the North Grove Public Improvement District pursuant to the provisions of Chapter 372 of the Texas Local Government Code, as amended.

Mr. Josh Arendt, Municap, reviewed Improvement Area #2 of the North Grove Public Improvement District noting the only change in the document is the interest rate. He explained the assessment is .22 cents/per \$100 valuation. He requested acceptance and approval of the service and assessment plan, assessment roll, and all related documents in items 18. – 22.

There being no others to speak for or against the Public Hearing to consider proposed assessments to be levied against property within Improvement Area #2 of the North Grove Public Improvement District pursuant to the provisions of Chapter 372 of the Texas Local Government Code, as amended, Mayor Hill closed the Public Hearing.

- 18. Discuss, consider and act on approving Ordinance of the City of Waxahachie, Texas accepting and approving a service and assessment plan and assessment roll for the Improvement Area #2 of the North Grove Public Improvement District; making a finding of special benefit to the property located within Improvement Area #2 of the North Grove Public Improvement District; levying special assessments against property within Improvement Area #2 of the District and establishing a lien on such property; providing for payment of assessments in accordance with Chapter 372, Texas Local Government Code, as amended; providing for the method of assessment and the payment of the assessments, providing penalties and interest on delinquent assessments, providing for severability, and providing an effective date**

**ORDINANCE NO. 3266**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WAXAHACHIE ACCEPTING AND APPROVING AN UPDATED SERVICE AND ASSESSMENT PLAN AND AN IMPROVEMENT AREA #2 ASSESSMENT ROLL FOR THE NORTH GROVE PUBLIC IMPROVEMENT DISTRICT; MAKING A FINDING OF SPECIAL BENEFIT TO THE PROPERTY IN IMPROVEMENT AREA #2 OF THE DISTRICT; LEVYING SPECIAL ASSESSMENTS AGAINST PROPERTY WITHIN IMPROVEMENT AREA #2 OF THE DISTRICT AND ESTABLISHING A LIEN ON SUCH PROPERTY; PROVIDING FOR PAYMENT OF THE ASSESSMENTS IN ACCORDANCE WITH CHAPTER 372, TEXAS LOCAL GOVERNMENT CODE, AS AMENDED; PROVIDING FOR THE METHOD OF ASSESSMENT AND THE PAYMENT OF THE ASSESSMENTS, PROVIDING PENALTIES AND INTEREST ON DELINQUENT ASSESSMENTS, PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.**

**Action:**

*Council Member Chuck Beatty moved to approve Ordinance No. 3266. Mayor Pro Tem Mary Lou Shipley seconded, All Ayes.*

- 19. Discuss, consider and act to authorize the Mayor of the City to execute the North Grove Public Improvement District Improvement Area #2 Reimbursement Agreement with BBCP North Grove 79, LLC**

**Action:**

*Council Member Doug Barnes moved to authorize the Mayor of the City to execute the North Grove Public Improvement District Improvement Area #2 Reimbursement Agreement with BBCP North Grove 79, LLC. Mayor Pro Tem Mary Lou Shipley seconded, All Ayes.*

- 20. Discuss, consider and act to authorize the Mayor of the City to execute the North Grove Public Improvement District Improvement Area #2 Construction, Funding, and Acquisition Agreement with BBCP North Grove 79, LLC**

**Action:**

*Mayor Pro Tem Mary Lou Shipley moved to authorize the Mayor of the City to execute the North Grove Public Improvement District Improvement Area #2 Construction, Funding, and Acquisition Agreement with BBCP North Grove 79, LLC. Council Member Melissa Olson seconded, All Ayes.*

- 21. Discuss, consider and act to authorize the Mayor of the City to execute the Landowner Agreement related to Improvement Area #2 of the North Grove Public Improvement District with BBCP North Grove 79, LLC**

**Action:**

*Council Member Melissa Olson moved to authorize the Mayor of the City to execute the Landowner Agreement related to Improvement Area #2 of the North Grove Public Improvement District with BBCP North Grove 79, LLC. Council Member Chuck Beatty seconded, All Ayes.*

- 22. Discuss, consider and act to provide City consent to, and ratification of, the assignment of certain rights from Deborah Jeanne Neal; Carole Jane Wilkinson; Donna Margaret Huffman; Stuart Bowman Lumpkins, Jr.; and Stuart Bowman Lumpkins, Jr., as Independent Executor of the Estate of Margaret Harkins Lumpkins, Deceased, to BBCP North Grove, LLC, a Texas limited liability company, as reflected in the Assignment of Rights in North Grove Development Project and Public Improvement District dated September 9, 2020, and as required by Section 8.03 of the North Grove Public Improvement District Financing Agreement dated February 26, 2015**

**Action:**

*Council Member Chuck Beatty moved to provide City consent to, and ratification of, the assignment of certain rights from Deborah Jeanne Neal; Carole Jane Wilkinson; Donna Margaret Huffman; Stuart Bowman Lumpkins, Jr.; and Stuart Bowman Lumpkins, Jr., as Independent Executor of the Estate of Margaret Harkins Lumpkins, Deceased, to BBCP North Grove, LLC, a Texas limited liability company, as reflected in the Assignment of Rights in North Grove Development Project and Public Improvement District dated September 9, 2020, and as required by Section 8.03 of the North Grove Public Improvement District Financing Agreement dated February 26, 2015. Council Member Doug Barnes seconded, All Ayes.*

- 23. Consider authorizing City Manager to execute the abandonment of the drainage and utility easement associated with the College Street Drainage Improvement Project once the meters and bounds survey is completed**

Director of Public Works and Engineering James Gaertner explained the abandonment of a portion of an existing drainage easement in the parking lot at the north end of Covenant Life Church is needed for the College Street Drainage Improvement Project. The existing easement will be abandoned and a permanent easement will be dedicated for construction of large storm pipe and box culvert.

**Action:**

*Mayor Pro Tem Mary Lou Shipley moved to authorize the City Manager to execute the abandonment of the drainage and utility easement associated with the College Street Drainage Improvement Project once the meters and bounds survey is completed. Council Member Melissa Olson seconded, All Ayes.*

- 24. Consider award of a bid to Reliable Paving, Inc. for the construction of the North College Street Drainage and Wastewater Capital Improvement Project**

Mr. Gaertner reviewed the bid for the North College Street Drainage and Wastewater Improvements. He explained Reliable Paving submitted the lowest responsible bid in the amount of \$2,450,300.00. He noted staff also recommended Council approve a \$60,000.00 construction contingency for the project. The project was planned in the FY19-20 Bond for construction and the additional project cost will be funded from previous project savings. He noted the project will construct a large storm drain system on North College Street between Parks Avenue and the BNSF Rail Road and extend east from College Street, cross North Jackson Street and outfall to the existing drainage channel. He explained the new system will intercept storm water that currently flows through the private drainage tunnel west of North College Street and will also resurface the roadway full width within the project area.



**Action:**

*Council Member Doug Barnes moved to award bid to Reliable Paving, Inc. for the construction of the North College Street Drainage and Wastewater Capital Improvement Project in the amount of \$2,450,300.00 with \$60,000.000 project contingency. Council Member Chuck Beatty seconded, All Ayes.*

**25. Convene into Executive Session for consultation with attorney regarding pending or contemplated litigation as permitted under Section 551.071, Texas Government Code**

Mayor Hill announced at 8:27 p.m. the City Council would convene into Executive Session for consultation with attorney regarding pending or contemplated litigation as permitted under Section 551.071, Texas Government Code.

**26. Reconvene and take any necessary action**

The meeting reconvened at 8:47 p.m.

**Action:**

*No action taken.*

**27. Comments by Mayor, City Council, City Attorney and City Manager**

Assistant City Manager Tommy Ludwig thanked Mr. Brooks, Mr. Gaertner, Senior Planner Colby Collins, and Utilities Director David Bailey for their work on the Emory Lakes Development.

Planning Director Shon Brooks thanked Assistant City Manager Tommy Ludwig and City Manager Michael Scott for their work on the Emory Lakes Development.

Council Member Doug Barnes echoed staff comments and also thanked the Planning & Zoning Commission and City Attorney Robert Brown for their work on the Emory Lakes Development. He noted the City wants good growth.

Council Member Chuck Beatty and City Manager Michael Scott echoed Council Member Barnes' comments.

Mayor Pro Tem Mary Lou Shipley explained she sympathized with the existing property owners but noted growth is coming.

Council Member Melissa Olson echoed everyone's comments and explained to the residents that this was an important decision that was vetted tirelessly by Council and staff to make the best decision for Waxahachie.

City Attorney Robert Brown thanked Assistant City Manager Tommy Ludwig for serving as a panelist at the Land Use Conference and acknowledged him as a great speaker and representation of our city.

Assistant City Secretary Amber Villarreal announced early voting started on April 19<sup>th</sup>.

Mayor David Hill echoed everyone's comments and recognized past City Council members for their work on this development since 2005.

**28. Adjourn**

There being no further business, the meeting adjourned at 8:54 p.m.

Respectfully submitted,

Amber Villarreal  
Assistant City Secretary