

City Council  
February 18, 2019

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, February 18, 2019 at 7:00 p.m.

Council Members Present: Kevin Strength, Mayor  
David Hill, Mayor Pro Tem  
Chuck Beatty, Councilmember  
Mary Lou Shipley, 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 Kevin Strength called the meeting to order.

**2. Invocation**

**3. Pledge of Allegiance and Texas Pledge of Allegiance**

City Attorney Robert Brown gave the invocation and led the Pledge of Allegiance and the Texas Pledge of Allegiance.

**4. Consent Agenda**

- a. Minutes of the City Council meeting of February 4, 2019
- b. Minutes of the City Council briefing of February 4, 2019
- c. Minutes of the City Council and Planning & Zoning Commission Joint Work Session of February 4, 2019
- d. Minutes of the City Council and Planning & Zoning Commission Joint Work Session of February 12, 2019
- e. Waxahachie Police Department Racial Profiling Report for 2018
- f. Historic Preservation Matters event to be held March 2, 2019
- g. Run for Orphans 5K run to be held October 26, 2019

**Action:**

*Councilmember Melissa Olson moved to approve items a. through g. on the Consent Agenda. Mayor Pro Tem David Hill seconded, All Ayes.*

**5. Introduce Honorary Councilmember**

Mayor Strength announced the Honorary Councilmember was unable to attend.

**6. Present Proclamation Proclaiming February as “Congenital Heart Defect Awareness” Month**

Mayor Strength read a Proclamation proclaiming February as "Congenital Heart Defect Awareness" Month and presented it to families affected by Congenital Heart Defect. Ms. Stephanie Schaefer spoke of the importance of CHD Awareness and shared her story of the effects on her family losing a child with congenital heart defect.

- 7. Public Hearing on a request by James R. Henry for a Zoning Change from a Future Development zoning district to Planned Development-Single Family-1, with Concept Plan, located at 2801 Howard Road (Property IDs 257995 and 182121) - Owner: JAMES R HENRY and LINDA S OSBORN (PD-19-0001)**

Mayor Strength opened the Public Hearing.

Mr. Shon Brooks, Director of Planning, stated the applicant is proposing to create approximately 95 acres for Planned Development with the intent to develop a maximum of five (5) residential lots. Additionally, the applicant wishes to allow a deviation from the minimum lot depth by permitting a minimum depth of 320 feet. Staff recommended approval as presented.

Mr. Brown announced Mayor Pro Tem David Hill has a conflict of interest on items 7-9 and will not participate in discussion and voting.

There being no others to speak for or against PD-19-0001, Mayor Strength closed the Public Hearing.

- 8. Consider proposed Ordinance approving Zoning Change No. PD-19-0001**

**ORDINANCE NO. 3092**

**AN ORDINANCE AUTHORIZING A ZONING CHANGE FROM FUTURE DEVELOPMENT TO PLANNED DEVELOPMENT-FUTURE DEVELOPMENT (PD-FD), WITH CONCEPT PLAN LOCATED AT 2801 HOWARD ROAD IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING 94.996 ACRES KNOWN AS PROPERTY ID 257995 AND 182121 OF S.M. DURRETT SURVEY, ABSTRACT NO. 272, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

**Action:**

*Councilmember Mary Lou Shipley moved to approve Ordinance No. 3092. Councilmember Chuck Beatty seconded. The vote was as follows: Ayes: Kevin Strength, Chuck Beatty, Mary Lou Shipley, and Melissa Olson. Noes: None. Abstain: David Hill*

**The motion carried.**

- 9. Consider request by James R. Henry for a Preliminary Plat of Crooked Creek Farms for 3 lots, being 94.996 acres situated in the S.M. Durrett Survey, Abstract 272 (Property IDs 257995 and 182121) – Owner: JAMES R HENRY and LINDA S OSBORN (PP-19-0002)**

Mr. Brooks stated the Preliminary Plat is the corresponding plat with the above lots as discussed. He recommended approval per staff comments.

**Action:**

*Councilmember Melissa Olson moved to approve a request by James R. Henry for a Preliminary Plat of Crooked Creek Farms for 3 lots, being 94.996 acres situated in the S.M. Durrett Survey, Abstract 272 (Property IDs 257995 and 182121) – Owner: JAMES R HENRY and LINDA S OSBORN (PP-19-0002) per Staff comments. Councilmember Chuck Beatty seconded. The vote was as follows: Ayes: Kevin Strength, Chuck Beatty, Mary Lou Shipley, and Melissa Olson. Noes: None. Abstain: David Hill.*

**The motion carried.**

- 10. Public Hearing on a request by Robert C. Morgan, Grantava Holdings LLC, for a Replat of Lot 3A, Block 184, Town Addition, to create Lots 1 through 9, Block A, Wyatt Heights, 2.512 acres (Property ID 270088) – Owner: GRANTAVA INC (RP-19-0003)**

Mayor Strength opened the Public Hearing.

Mr. Brooks stated the request is for a Replat at the corner of Wyatt Street and Peters Street. The homes to be built will require 2 car garage parking. Staff received one letter of support. Mr. Brooks recommended approval.

There being no others to speak for or against RP-19-0003, Mayor Strength closed the Public Hearing.

- 11. Consider approval of RP-19-0003**

**Action:**

*Councilmember Mary Lou Shipley moved to approve a request by Robert C. Morgan, Grantava Holdings LLC, for a Replat of Lot 3A, Block 184, Town Addition, to create Lots 1 through 9, Block A, Wyatt Heights, 2.512 acres (Property ID 270088) – Owner: GRANTAVA INC (RP-19-0003). Councilmember Chuck Beatty seconded, All Ayes.*

- 12. Consider request by Robert C. Morgan, Grantava Holdings LLC, for a Preliminary Plat of Morgan Estate for 1 lot, being 2.566 acres situated in the J.C. Armstrong Survey, Abstract 6 (Property ID 179112) – Owner: GRANTAVA INC (PP-19-0004)**

Mr. Brooks stated the Preliminary Plat is for approximately 2.5 acres and proposed for a one single-family residential home. He noted staff has some outstanding comments and recommended approval per staff comments.

**Action:**

*Councilmember Chuck Beatty moved to approve a request by Robert C. Morgan, Grantava Holdings LLC, for a Preliminary Plat of Morgan Estate for 1 lot, being 2.566 acres situated in the J.C. Armstrong Survey, Abstract 6 (Property ID 179112) – Owner: GRANTAVA INC (PP-19-0004) per Staff comments. Councilmember Melissa Olson seconded, All Ayes.*

- 13. Consider request by Robert C. Morgan, Grantava Holdings LLC, for a Final Plat of Morgan Estate for 1 lot, being 2.566 acres situated in the J.C. Armstrong Survey, Abstract 6 (Property ID 179112) – Owner: GRANTAVA INC (FP-19-0005)**

**Action:**

*Councilmember Chuck Beatty moved to approve a request by Robert C. Morgan, Grantava Holdings LLC, for a Final Plat of Morgan Estate for 1 lot, being 2.566 acres situated in the J.C. Armstrong Survey, Abstract 6 (Property ID 179112) – Owner: GRANTAVA INC (FP-19-0005). Councilmember Melissa Olson seconded, All Ayes.*

- 14. Public Hearing on a request by Isabel Bewley for a Specific Use Permit (SUP) for Rooftop Solar Panel System use within a Planned Development-43-Single Family-3 zoning district, located at 3016 Coventry Lane (Property ID 205613) – Owner: ISABEL C BEWLEY (SU-19-0007)**

Mayor Strength opened the Public Hearing.

Mr. Brooks reported three letters of opposition were received. He stated the roof top solar panels meet the requirements of the Zoning Ordinance. He recommended approval.

There being no others to speak for or against SU-19-0007, Mayor Strength closed the Public Hearing.

- 15. Consider proposed Ordinance approving Zoning Change No. SU-19-0007**

**ORDINANCE NO. 3093**

**AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO PERMIT A ROOFTOP SOLAR PANEL SYSTEM USE WITHIN A PLANNED DEVELOPMENT-SF-3 (PD-SF-3) ZONING DISTRICT, LOCATED AT 3016 COVENTRY LANE, BEING PROPERTY ID 205613, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING LOT 14, BLOCK B, WINDCHASE ADDITION PHASE 3, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

**Action:**

*Councilmember Mary Lou Shipley moved to approve Ordinance No. 3093. Mayor Pro Tem David Hill seconded, All Ayes.*

- 16. Continue Public Hearing on a request by Drew Dubocq, Bannister Engineering, for a Specific Use Permit (SUP) for Outside Storage use within a Heavy Industrial zoning district, located at 201 Butcher Road (Property ID 173464) – Owner: WAXAHACHIE ASSOCIATES LLC (SU-18-0194)**

Mayor Strength continued the Public Hearing.

Mr. Brooks reported the request is for outside storage located at Butcher Road and IH35. He stated the applicant resubmitted a proposal to include a masonry wall located at the front of the property with fifteen (15) trees. Staff recommended additional consideration of the request.

Mr. Dan Baroni, ABC Supply, showed a picture depicting the location of the proposed brick wall and landscaping.

There being no others to speak for or against SU-18-0194, Mayor Strength closed the Public Hearing.

Council held discussion and Mr. Brooks stated IH35 will be improved bringing more visibility at the proposed location and remain a high traffic area. He expressed concern of the masonry wall and landscaping being enough to allow outside storage.

**17. Consider proposed Ordinance approving Zoning Change No. SU-18-0194**

**ORDINANCE NO. 3094**

**AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO PERMIT OUTDOOR STORAGE USE WITHIN A HEAVY INDUSTRIAL (HI) ZONING DISTRICT, LOCATED AT 201 BUTCHER ROAD, BEING PROPERTY ID 173464, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING LOT 1R, IN THE FOUR B S ADDITION, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

**Action:**

*Mayor Kevin Strength moved to approve Ordinance No. 3094. Councilmember Chuck Beatty seconded, All Ayes.*

**18. Continue Public Hearing on a request by Barb Hall, Ervin USA, for a Specific Use Permit (SUP) for Trailer, Truck Sales or Rental use within a Light Industrial-2 and Future Development zoning district, located at 4675 N Interstate 35, being 790 EC NEWTON 29.74 ACRES (Property ID 188460) - Owner: LUIS ESTRADA (SU-18-0180)**

Mayor Strength continued the Public Hearing.

Mr. Brooks reported this request is for a renewal of a Specific Use Permit from 2015 with stipulations. He stated this is a truck center for the sale and rental of tractors and trailers. Mr. Brooks stated the 2015 stipulations included an 80x400 square foot concrete at the front with tractors on concrete, fencing and landscaping. He stated the applicant has not complied with the requirements. Mr. Brooks stated the applicant now has a rod iron fence, shrubs, and irrigation. He stated, in corresponding with the applicant, they will clean up the rocks where the shrubs are planted. Staff met with applicant onsite and discussed concrete requirement. Applicant provided quotes for the concrete as well as the cost of upgrades. Mr. Brooks recommended additional consideration.

The attorney for the applicant reviewed the upgrades to the property and stated it will take approximately two weeks to get the concrete installed.

Mayor Strength recommended to continue this case to the meeting of March 18, 2019 to allow for the completion of the concrete.

**19. Consider proposed Ordinance approving Zoning Change No. SU-18-0180**

**Action:**

*Councilmember Chuck Beatty moved to continue a request by Barb Hall, Ervin USA, for a Specific Use Permit (SUP) for Trailer, Truck Sales or Rental use within a Light Industrial-2 and Future Development zoning district, located at 4675 N Interstate 35, being 790 EC NEWTON 29.74 ACRES (Property ID 188460) - Owner: LUIS ESTRADA (SU-18-0180) to the City Council meeting of March 18, 2019. Mayor Pro Tem David Hill seconded, All Ayes.*

**20. Consider award of a bid to Axis Contracting Inc. for the corridor rehabilitation of the Colonial Acres Addition**

Mr. Jeff Chambers, Director of Public Works, reported five (5) bids were received and Axis Contracting Inc. came in with the lowest bid of \$1,903,522.50. He stated their submission was \$134,477.50 below the budgeted amount for the current year Capital Improvement Plan, for which City Council approved \$2,038,000 in the Fiscal Year 2018-2019 Operation and Maintenance budget to fund this work.

Mayor Pro Tem Hill asked how many completed street projects have been completed in the past five (5) years. Mr. Tommy Ludwig, Assistant City Manager, stated since 2010, approximately \$33,298,000 in streets. Mayor Pro Tem Hill stated staff has done a great job with the street program.

**Action:**

*Councilmember Chuck Beatty moved to award bid to Axis Contracting Inc. for the corridor rehabilitation of the Colonial Acres Addition in the amount of \$1,903,522.50. Mayor Pro Tem David Hill seconded, All Ayes.*

**21. Consider proposed ordinance amending Chapter 8 (Building) of the Code of Ordinances of the City of Waxahachie by repealing and replacing Article III Substandard and Inadequate Structure Section 8.57 Introduction to Section 8.74 Requiring repair, removal, or demolition of the building or other structure; and setting an effective date of March 1, 2019**

Mr. Ryan Studdard, Director of Building and Community Services, stated he was available to recap or answer any questions from the presentation at the Briefing.

Councilmember Melissa Olson asked Mr. Studdard to review the major changes. Mr. Studdard stated the specific revisions included the following:

- More clearly define what constitutes a substandard structure, enabling Code Compliance and Building Inspection staff to better address violations within the community

- Simplifies the existing ordinance by providing clearer definitions and eliminating repetitive or unnecessary language
- Better outlines the process by which structures are ordered to be demolished

Mr. Ludwig stated the provision for emergency powers has been removed because it does not go along with state law.

Mr. Brown stated state law sets the standards with current laws and procedures.

Mayor Pro Tem Hill asked how many people have been moved out. City Manager Michael Scott stated several years ago the City would take down 30-40 homes in a given year being the problematic areas. He stated last year we pulled back. Mr. Scott stated the proposed ordinance will work .

Councilmember Chuck Beatty stated most homes taken down were substandard structures and now the infill lots have been rebuilt on. He stated the properties are now back on the tax rolls.

Councilmember Olson asked Mr. Studdard if his department tries to work with owners. Mr. Studdard stated his staff tries to assist the property owners.

#### **ORDINANCE NO. 3095**

**AN ORDINANCE AMENDING CHAPTER 8 (BUILDING) OF THE CODE OF ORDINANCES OF THE CITY OF WAXAHACHIE BY REPEALING AND REPLACING ARTICLE III SUBSTANDARD AND INADEQUATE STRUCTURE SECTION 8.57 INTRODUCTION TO SECTION 8.74 REQUIRING REPAIR, REMOVAL, OR DEMOLITION OF THE BUILDING OR OTHER STRUCTURE; AND SETTING AN EFFECTIVE DATE OF MARCH 1, 2019.**

#### **Action:**

*Councilmember Chuck Beatty moved to approve Ordinance No. 3095. Councilmember Mary Lou Shipley seconded. The vote was as follows: Ayes: Kevin Strength, David Hill, Chuck Beatty, and Mary Lou Shipley. Noes: Melissa Olson.*

#### **The motion carried.**

- 22. Consider proposed Ordinance amending “Offenses and Miscellaneous Provisions” of the Waxahachie Code of Ordinances by adding Article XV – “Registered Sex Offenders” prohibiting registered sex offenders from residing or going in, on, or within 1,000 feet of a child safety zone and providing for a penalty of a fine**

Police Chief Wade Goolsby stated we do not currently have an ordinance that would restrict sex offenders from being able to reside within 1,000 feet of a child safety zone. He explained the Ordinance is a layer of protection for our children. Chief Goolsby stated the Ordinance does not affect offenders currently living in the city.

Councilmember Olson inquired about the 500 feet of a child safety zone versus 1,000 feet proposed in the Ordinance. Mr. Brown stated the state standard language is 500 feet, however many cities use the 1,000 feet distance.

**ORDINANCE NO. 3096**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS, ADDING ARTICLE XV, "REGISTERED SEX OFFENDERS," TO CHAPTER 21, "OFFENSES AND MISCELLANEOUS PROVISIONS," OF THE WAXAHACHIE CODE OF ORDINANCES; PROHIBITING REGISTERED SEX OFFENDERS FROM RESIDING OR GOING IN, ON, OR WITHIN 1,000 FEET OF A CHILD SAFETY ZONE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALING CLAUSE; PROVIDING FOR A PENALTY OF A FINE NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500) FOR EACH OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**Action:**

*Councilmember Mary Lou Shipley moved to approve Ordinance No. 3096. Councilmember Melissa Olson seconded, All Ayes.*

- 23. Consider proposed Ordinance amending Chapter 32 (Traffic) of the Code of Ordinances of the City of Waxahachie by repealing Article I; Section 32-7 "Same – Protective Headgear Required"**

Chief Goolsby stated the current City Ordinance is duplicated by state law and state law supersedes local laws. He explained the proposed Ordinance repeals and reserves Section 32-7. Same - Protective headgear required.

**ORDINANCE NO. 3097**

**AN ORDINANCE AMENDING CHAPTER 32 (TRAFFIC) OF THE CODE OF ORDINANCES OF THE CITY OF WAXAHACHIE BY REPEALING SECTION 32-7 SAME - PROTECTIVE HEADGEAR REQUIRED; AND SETTING AN EFFECTIVE DATE OF FEBRUARY 18, 2019.**

**Action:**

*Mayor Pro Tem David Hill moved to approve Ordinance No. 3097. Councilmember Mary Lou Shipley seconded, All Ayes.*

- 24. Consider a quote for services and authorizing an agreement with Musco Sports Lighting, LLC for the purchase and installation of athletic field lighting at Lee Penn Park**

Mr. Gumaro Martinez, Assistant Director of Parks and Recreation, reported City Staff has obtained a quote from Musco Sports Lighting, LLC through the BuyBoard purchasing cooperative for a total cost of \$109,500. He explained the ability to utilize BuyBoard for this portion of the renovations will help expedite the project and allow the City to take advantage of potential cost savings. Mr. Martinez stated the funding would come from the available balance of the 2016



Certificate of Obligations WDCD Park Improvement Bonds. He stated the available balance has sufficient funds to absorb the additional expenditure.

**Action:**

*Councilmember Chuck Beatty moved to approve agreement with Musco Sports Lighting, LLC for the purchase and installation of athletic field lighting at Lee Penn Park in the amount of \$109,500.00. Mayor Pro Tem David Hill seconded, All Ayes.*

**25. Public Comments**

Mr. Alan Fox, 327 University Drive, Waxahachie, spoke on the Substandard Structure Ordinance. He stated houses have been passed on from generation to generation and expressed concern of people living in houses and having to comply with this Ordinance. Mr. Fox stated if people had the funds to repair their homes they would and we should not fine people that cannot keep their homes maintained. He asked if a program could be established to help people bring their substandard homes up to code. Mr. Fox stated people who own these homes cannot afford the property taxes and have to sell. He agreed condemned houses need to be demolished. Mr. Fox asked what do we want for Waxahachie, a place for only higher income residents or everyone up and down the economic spectrum.

**26. Convene into Executive Session to consult with City Attorney about pending or contemplated litigation as permitted under Section 551.071 of the Texas Government Code, including disputes regarding sign ordinance**

Mayor Strength announced at 7:56 p.m. the City Council would convene into Executive Session to consult with the City Attorney about pending or contemplated litigation as permitted under Section 551.071 of the Texas Government Code, including disputes regarding sign ordinance.

**27. Reconvene into Open Session for possible action resulting from any items posted and discussed in Executive Session including, but not limited to, consideration of potential ordinance adoption**

The meeting reconvened at 8:12 p.m.

**ORDINANCE NO. 3098**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS, REGULATING COMMERCIAL SIGNS WITHIN THE CITY LIMITS AND THE CITY'S EXTRATERRITORIAL JURISDICTION; PROVIDING FOR SAVINGS, SEVERABILITY, AND REPEALING CLAUSES; PROVIDING FOR A PENALTY OF A FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000) DAILY FOR EACH OFFENSE; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.**

**Action:**

*Councilmember Mary Lou Shipley made a motion to approve the proposed Ordinance of the City Council of the City of Waxahachie, Texas, regulating commercial signs within the city limits and the city's extraterritorial jurisdiction; providing for savings, severability, and repealing clauses;*

*providing for a penalty of a fine not to exceed the sum of two thousand dollars (\$2,000) daily for each offense; and providing for publication and an effective date. Mayor Pro Tem David Hill seconded, All Ayes.*

## **28. Comments by Mayor, City Council, City Attorney and City Manager**

Mr. Tommy Ludwig, Assistant City Manager, announced the Sanitary Sewer Overflow workshop will be held February 25, 2019.

Mr. Albert Lawrence, Assistant City Manager, thanked Council for approving the lighting at Penn Park. He thanked Mr. John Smith, Park Director and Mr. Gumaro Martinez for keeping the project moving forward even during weather delays. Mr. Lawrence stated the sports park is transforming quickly.

Councilmember Melissa Olson thanked the individuals who received the Proclamation and thanked Ms. Stephanie Schaefer for telling her story.

City Manager Michael Scott reported the Amphitheater project is under construction. He thanked Mr. Lawrence for overseeing the project. He stated the Thoroughfare Plan is updated and will be back before Council on March 4, 2019.

Mayor Kevin Strength thanked City Staff for all the work that is going on in the City. He stated it is a great time to be a part of the City.

Mayor Pro Tem David Hill thanked Mr. John Rogers who was instrumental in amending the Offenses and Miscellaneous Provisions by adding the Article pertaining to Registered Sex Offenders. Mayor Pro Tem Hill stated he hears people say "we need to fix things" and stated Waxahachie is a very giving community. He stated the Waxahachie Rotary Club two years ago assisted a couple that lived in a substandard house by providing \$15,000 for repairs and other local businesses came together and provided electric, carpet, windows, siding, and supplies. Mayor Pro Tem Hill stated through the Texas Rent Project fifty handicap ramps have been built and other organizations such as the Lions Club, Habitat for Humanity, SAGU students, WISD students, and the Waxahachie Fire Department have also assisted. He stated his wish is for the people stating "we need to fix things" would see what is being done.

Councilmember Mary Lou Shipley stated in past years she has been involved in Habitat for Humanity and donated two lots here in town and homes were built on them. She stated it is very rewarding to be involved in it. Councilmember Shipley stated it is a little discouraging to encounter people that don't realize what has been done. She stated we are not looking to demolish houses that people live in noting Waxahachie is a very helpful town with very giving people.

## **29. Adjourn**

*There being no further business, Mayor Pro Tem David Hill moved the meeting adjourn at 8:22 p.m. Councilmember Mary Lou Shipley seconded, All Ayes.*

Respectfully submitted,

Lori Cartwright, City Secretary