

City Council  
August 21, 2017

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, August 21, 2017 at 7:00 p.m.

Council Members Present: Kevin Strength, Mayor  
Mark Singleton, Mayor Pro Tem  
Chuck Beatty, Councilmember  
David Hill, Councilmember  
Mary Lou Shipley, Councilmember

Others Present: Paul Stevens, City Manager  
Michael Scott, Assistant City Manager  
Robert Brown, City Attorney  
Lori Saunders, City Secretary  
Shon Brooks, Director of Planning

**1. Call to Order**

Mayor Strength called the meeting to order.

**2. Invocation**

**3. Pledge of Allegiance**

**4. Texas Pledge of Allegiance**

Mr. Shon Brooks, Director of Planning, gave the invocation and led the Pledge of Allegiance and the Texas Pledge of Allegiance.

**5. First Public Hearing at 7:00 p.m. and Second Public Hearing at conclusion of First Public Hearing to consider requested annexation by Arbors Development LLC for annexation of approximately 292.589 acres**

Mayor Strength opened the First Public Hearing.

There being no others to speak for or against the requested annexation by Arbors Development LLC for annexation of approximately 292.589 acres, Mayor Strength closed the First Public Hearing.

Mayor Strength opened the Second Public Hearing.

There being no others to speak for or against the requested annexation by Arbors Development LLC for annexation of approximately 292.589 acres, Mayor Strength closed the Second Public Hearing.

**6. Public Comments:**

None

## **7. Consent Agenda**

- a. Minutes of the City Council meetings of August 3, 2017 and August 7, 2017
- b. Minutes of the regular Planning and Zoning Commission meeting of August 8, 2017
- c. Minutes of the Waxahachie Community Development Corporation meeting of August 8, 2017
- d. Minutes of the Park Board meeting of August 10, 2017
- e. Minutes of the Senior Center Advisory Committee meeting of August 2, 2017
- f. Minutes of the Airport Board meeting of August 10, 2017
- g. Monthly Code Enforcement Report for July 2017
- h. Monthly Crime Report for July 2017
- i. Monthly Fire and EMS Report for July 2017
- j. Monthly Violation Activity Statistics for July 2017
- k. Budget amendment request for Public Works Department
- l. Budget amendment request from Parks Department
- m. Approve Veterans Day and WWII Weekend Events
- n. Approve Ellis County Salvation Army Boys and Girls Club Downtown Dash 5k
- o. Award bid for Landscape Services
- p. Request by Ivan Brigman, Tree Hill Homes, for a Final Plat of Taylor Ridge Phase 4, being a 56.766 acre addition in the S.B. Orton Survey, Abstract 813, in the Extra Territorial Jurisdiction (ETJ) – Owner: TREE HILL HOMES LP (FP-17-0093)

### **Action:**

*Councilmember Chuck Beatty moved to approve items a. through p. on the Consent Agenda. Councilmember David Hill seconded, All Ayes.*

## **8. Introduce Honorary Councilmember**

Councilmember Mary Lou Shipley introduced Honorary Councilmember Jenna Nguyen and presented her with a Certificate of Appreciation for participation in the Honorary Councilmember program.

## **9. Request to appear by Anita Brown to present Farmer's Market Report**

Ms. Anita Brown, Downtown Development Director, presented the Farmer's Market Report noting the market is in its 15<sup>th</sup> year of operation. She stated this year is set to run from April 22<sup>nd</sup> through October 28<sup>th</sup> noting the season is 28 weeks this year. Ms. Brown stated sales for the first half of the season totaled \$79,850.72. Ms. Brown thanked City Council for their support noting the Farmer's Market is a good quality of life for our community.

Mayor Pro Tem Mark Singleton asked Ms. Brown to provide the totals for the past 10 years.

### **Action:**

*None*

**10. Request to appear by Anita Brown to request street closure for Farm to Table Dinner on the Square**

Ms. Anita Brown requested permission to close College Street from Main to Franklin from 8:00 a.m. – 11:00 p.m. on Saturday, November 4, 2017 for the Farm to Table Dinner on the Square. She reported the Farmer’s Market, Downtown Merchants, and several departments from the high school are coming together to host the ticketed sit down dinner on the street event. Ms. Brown stated all proceeds after expenses not covered by sponsorships will be donated to the culinary and art departments at the high school.

Ms. Brown reported the event will not interfere with the Salvation Army 5k that will be held Saturday morning.

**Action:**

*Mayor Pro Tem Mark Singleton moved to approve street closure for the Farm to Table Dinner on the Square as presented above. Councilmember David Hill seconded, All Ayes.*

- 11. Continue Public Hearing on a request by Helen F. Reed, Helen’s House, for a Zoning Change from a General Retail (GR) zoning district to Single Family-2 (SF2), located at 320 Lynn Street (Property ID 173399), being 2E PT PT RD 1 FERRIS 2ND 0.341 ACRES – Owner: HELEN F REED (ZC-17-0070)**
- 12. Consider proposed Ordinance approving Zoning Change No. ZC-17-0070**
- 13. Continue Public Hearing on a request by Helen F. Reed, Helen’s House, for a Specific Use Permit (SUP) to allow a Family Home (child care in place of residence) use within a Single Family-2 (SF2) zoning district, located at 320 Lynn Street (Property ID 173399), being 2E PT PT RD 1 FERRIS 2ND 0.341 ACRES – Owner: HELEN F REED (SU-17-0071)**
- 14. Consider proposed Ordinance approving Zoning Change No. SU-17-0071**

Mayor Strength opened the Public Hearings for Item 11 (ZC-17-0070) and Item 13 (SU-17-0071).

Assistant City Manager Michael Scott reported the applicant has previously been granted continuance and recommended Council deny without prejudice to allow the applicant to get her certification from the State.

There being no others to speak for or against ZC-17-0070 and SU-17-0071, Mayor Strength closed the Public Hearing.

**Action:**

*Mayor Pro Tem Mark Singleton moved to deny without prejudice Item 12 (ZC-17-0070) and Item 14 (SU-17-0071). Councilmember David Hill seconded, All Ayes.*

15. **Public Hearing on a request by Yongfei Lin, Waxahachie Foot Spa, for a Specific Use Permit (SUP) to permit Medical Facility use to allow a massage establishment [full body massage] within a Planned Development-20-General Retail (PD-20-GR) zoning district, located at 401 N Highway 77, Suite 11B, being 148 & 599 WM BASKINS & J JOHNSON (Property ID 180818) 6.85 ACRES – Owner: WINDWARD PARTNERS X. (SU-17-0091)**

Mayor Strength opened the Public Hearing.

Mr. Shon Brooks, Director of Planning, reported earlier this year the applicant obtained a Specific Use Permit limited to foot massage for this site. The applicant now seeks to establish a full body massage facility.

There being no others to speak for or against SU-17-0091, Mayor Strength closed the Public Hearing.

16. **Consider proposed Ordinance approving Zoning Change No. SU-17-0091**

**ORDINANCE NO. 2957**

**AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO PERMIT A MEDICAL FACILITY USE FOR A MASSAGE ESTABLISHMENT [FULL BODY MASSAGE] WITHIN A PLANNED DEVELOPMENT-20-GENERAL RETAIL (PD-20-GR) ZONING DISTRICT, LOCATED AT 401 N HIGHWAY 77, SUITE 11B, BEING PROPERTY ID 180818, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING 148 & 599 WM BASKINS & J JOHNSON SURVEY, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

**Action:**

*Mayor Pro Tem Mark Singleton moved to approve Ordinance No. 2957 as presented. Councilmember Chuck Beatty seconded, All Ayes.*

17. **Public Hearing on a request by Michael Tull for a Specific Use Permit (SUP) to allow Accessory Building (Residential) greater or equal to 700 S.F. use within the Planned Development-45-Residential (PD-45-R) zoning district, located at 136 Mustang Creek Drive, being 24 A CHAPMAN PLACE UNIT 9 (Property ID 219356) 0.727 ACRES – Owner: MICHAEL J & ELIZABETH N TULL (SU-17-0092)**

Mayor Strength opened the Public Hearing.

Mr. Brooks reported the applicant's home is currently under construction and requested a Specific Use Permit for an accessory structure at the location. The structure is a detached garage and greater or equal to 700 square feet and will be located at the rear of the property.

There being no others to speak for or against SU-17-0092, Mayor Strength closed the Public Hearing.

**18. Consider proposed Ordinance approving Zoning Change No. SU-17-0092**

**ORDINANCE NO. 2958**

**AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO PERMIT AN ACCESSORY BUILDING (RESIDENTIAL) GREATER OR EQUAL TO 700 S.F. WITHIN A PLANNED DEVELOPMENT-45-RESIDENTIAL (PD-45-R) ZONING DISTRICT, LOCATED AT 136 MUSTANG CREEK DRIVE, BEING PROPERTY ID 219356, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING KNOWN AS LOT 24 BLOCK A OF THE CHAPMAN PLACE UNIT 9 SUBDIVISION (PROPERTY ID 219356) 0.727 ACRES, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

**Action:**

*Councilmember David Hill moved to approve Ordinance No. 2958 as presented. Councilmember Chuck Beatty seconded, All Ayes.*

**19. Public Hearing on a request by John DeGunya, CEI Engineering, for a Replat of Lot 1A to create Lot 1R1, Block A and Lot 1R2, Block A of the Waxahachie Towne Center Addition subdivision (Property ID 138051), 9.868 acres – Owner: TARGET CORPORATION (RP-17-0094)**

Mayor Strength opened the Public Hearing.

Mr. Shon Brooks, Director of Planning, reported the replat is in regards to the Panera Bread location on the Target Corporation property.

There being no others to speak for or against RP-17-0094, Mayor Strength closed the Public Hearing.

**20. Consider approving RP-17-0094**

**Action:**

*After further discussion, Councilmember Mary Lou Shipley moved to approve a request by John DeGunya, CEI Engineering, for a Replat of Lot 1A to create Lot 1R1, Block A and Lot 1R2, Block A of the Waxahachie Towne Center Addition subdivision (Property ID 138051), 9.868 acres – Owner: TARGET CORPORATION (RP-17-0094) as presented. Councilmember Chuck Beatty seconded, All Ayes.*

- 21. Public Hearing on a request by John DeGunya, CEI Engineering, for a Specific Use Permit (SUP) to allow Restaurant or Eating Place with Drive-In Service use within the Planned Development-50-General Retail (PD-50-GR) zoning district, located at 1316 N Highway 77, being a portion of Lot 1A of the Waxahachie Towne Center Addition subdivision, 1.358 ACRES – Owner: TARGET CORPORATION (SU-17-0095)**

Mayor Strength opened the Public Hearing.

Mr. Shon Brooks, Director of Planning, reported the Specific Use Permit will allow for a drive-thru at the Panera Bread location.

There being no others to speak for or against SU-17-0095, Mayor Strength closed the Public Hearing.

- 22. Consider proposed Ordinance approving Zoning Change No. SU-17-0095**

**ORDINANCE NO. 2959**

**AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) FOR RESTAURANT OF EATING PLACE WITH A DRIVE-IN SERVICE LOCATED AT 1316 N HIGHWAY 77, BEING A PORTION OF LOT 1A OF THE WAXAHACHIE TOWNE CENTER ADDITION SUBDIVISION, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING PROPERTY ID 138051, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

**Action:**

*Mayor Pro Tem Mark Singleton moved to approve Ordinance No. 2959 as presented. Councilmember Mary Lou Shipley seconded, All Ayes.*

- 23. Public Hearing on a request by John DeGunya, CEI Engineering, for a Specific Use Permit (SUP) to allow Unified Lot Sign use within the Planned Development-50-General Retail (PD-50-GR) zoning district, located at 1316 N Highway 77, being a portion of Lot 1A of the Waxahachie Towne Center Addition subdivision, 1.358 ACRES – Owner: TARGET CORPORATION (SU-17-0096)**

Mayor Strength opened the Public Hearing.

Mr. Shon Brooks, Director of Planning, reported Target's pole sign is located in what will now be the Panera Bread's parking lot and explained to prevent Target from relocating their sign, the applicant proposed to add Panera's sign onto the currently existing Target sign.

There being no others to speak for or against SU-17-0096, Mayor Strength closed the Public Hearing.

**24. Consider proposed Ordinance approving Zoning Change No. SU-17-0096**

**ORDINANCE NO. 2960**

**AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) FOR A UNIFIED LOT SIGN LOCATED AT 1316 N HIGHWAY 77, BEING A PORTION OF LOT 1A OF THE WAXAHACHIE TOWNE CENTER ADDITION SUBDIVISION, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING PROPERTY ID 138051, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

**Action:**

*Mayor Pro Tem Mark Singleton moved to approve Ordinance No. 2960 as presented. Councilmember Chuck Beatty seconded, All Ayes.*

**25. Consider proposed Ordinance amending Chapter 28, Streets and Sidewalks, and 31½, Telecommunications, of the City of Waxahachie Code of Ordinances, and adopting a Wireless Services Design Manual**

Mr. Doug Barnes, Director of Economic Development, reported Senate Bill 1004 was recently passed and becomes effective September 1, 2017 allowing wireless service providers access to cities rights-of-way to locate their facilities. He stated it does not favor cities because it takes away their ability to control how public rights-of-way are used and also dictates the fees to be charged. Mr. Barnes presented proposed Ordinance No. 2961 updating the city's telecommunications provisions and creating a design manual to protect parts of the city like neighborhood parks, and historical areas.

Mayor Pro Tem Mark Singleton spoke against proposed Ordinance No. 2961 noting it is state mandated and Council has the authority to deny. He stated he just received the proposed Ordinance and hasn't had a chance to review it and the design manual.

City Attorney Robert Brown stated the Ordinance updates the current telecommunications section to be consistent with the new law. It updates the right-of-way management with the new law so it will be effective and more importantly it adopts the right-of-way design manual which designates certain parts of the city that wireless service providers can't automatically go into. Mr. Brown stated it also sets a new fee structure to limit the fees that can be generated and there is no retroactive effect on that. He stated if not passed by September 1, 2017, the network providers can go anywhere without being regulated. Mr. Brown strongly recommended approval to protect the city from losing all control.

Councilmember Mary Lou Shipley stated she has read the Ordinance and understood this protects the historical districts more broadly than they currently are. She noted it is to the city's advantage to pass the Ordinance and if not, the city is at the mercy of what the Legislature passed.

Mr. Barnes presented Ordinance No. 2961:

**ORDINANCE NO. 2961**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS, AMENDING ARTICLE V, "RIGHT OF WAY MANAGEMENT," OF CHAPTER 28 OF THE CITY'S CODE OF ORDINANCES, AND AMENDING ARTICLE II, "USE OF CITY RIGHTS-OF-WAY," OF CHAPTER 31½ OF THE CITY'S CODE OF ORDINANCES, BY (1) AMENDING SECTION 28-74, "DEFINITIONS" BY ADDING NEW DEFINITIONS SPECIFICALLY RELATED TO TELECOMMUNICATIONS AND WIRELESS SERVICE PROVIDERS, (2) ADDING A NEW SECTION 28-83 TITLED "NETWORK PROVIDERS," TO PROVIDE FOR REGULATIONS FOR USE OF THE CITY'S RIGHTS-OF WAY BY WIRELESS NETWORK PROVIDERS, IN ACCORDANCE WITH CHAPTER 284 OF THE LOCAL GOVERNMENT CODE, (3) AMENDING SECTION 31½-22, "DEFINITIONS" BY ADDING NEW DEFINITIONS SPECIFICALLY RELATED TO TELECOMMUNICATIONS AND WIRELESS SERVICE PROVIDERS, (4) ADDING A NEW SECTION 31½-38 TITLED "CERTIFIED TELECOMMUNICATION PROVIDERS," TO PROVIDE FOR REGULATIONS FOR USE OF THE CITY'S RIGHTS-OF WAY BY CERTIFIED TELECOMMUNICATIONS PROVIDERS, IN ACCORDANCE WITH CHAPTER 283 OF THE LOCAL GOVERNMENT CODE, (5) ADOPTING A PUBLIC RIGHT-OF-WAY WIRELESS COMMUNICATION FACILITIES DESIGN MANUAL, AND (6) AMENDING THE CITY'S FEE SCHEDULE TO PROVIDE FOR NEW FEES APPLICABLE TO NETWORK PROVIDERS; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR A PENALTY OF A FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000) FOR EACH OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**Action:**

*After further discussion, Mayor Pro Tem Mark Singleton moved to deny Ordinance No. 2961. The motion died due to lack of second.*

*Councilmember Chuck Beatty moved to approve Ordinance No. 2961 as presented. Councilmember Mary Lou Shipley seconded. The vote was as follows:*

*Ayes: Kevin Strength  
Chuck Beatty  
David Hill  
Mary Lou Shipley*

*Noes: Mark Singleton*

*The motion carried.*

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



Councilmember Mary Lou Shipley thanked Ms. Anita Brown for the success of the Farmer's Market. She thanked Ms. Jenna Nguyen for participation as Honorary Councilmember.

Councilmember Chuck Beatty welcomed the new Planning Director Mr. Shon Brooks.

**27. Adjourn**

There being no further business, the meeting adjourned at 8:03 p.m.

Respectfully submitted,

Lori Saunders  
City Secretary