

**ROCKWALL CITY COUNCIL REGULAR MEETING**

**Tuesday, September 06, 2022 - 5:00 PM**

**City Hall Council Chambers - 385 Goliad St., Rockwall, TX 75087**

**I. CALL PUBLIC MEETING TO ORDER**

**Mayor Fowler called the meeting to order at 5:01 p.m. Present were Mayor Kevin Fowler, Mayor Pro Tem Trace Johannesen, and Councilmembers Clarence Jorif, Anna Campbell, Bennie Daniels and Mark Moeller. Also present were City Manager Mary Smith, Assistant City Manager Joey Boyd and City Attorney Frank Garza. Councilmember Dana Macalik was absent from the “call to order” portion of the meeting but joined Ex. Session at 5:05 p.m.**

**Mayor Fowler read the below listed discussion items into the record before recessing the public meeting to go into Executive Session at 5:02 p.m.**

**II. EXECUTIVE SESSION.**

**THE CITY OF ROCKWALL CITY COUNCIL WILL RECESS INTO EXECUTIVE SESSION TO DISCUSS THE FOLLOWING MATTER AS AUTHORIZED BY CHAPTER 551 OF THE TEXAS GOVERNMENT CODE:**

- 1. Discussion regarding amendment(s) to 'Agreement for Professional Services & Employment as City Manager,' pursuant to Section 551.074 (Personnel Matters).**
- 2. Discussion regarding (re)appointments to city regulatory boards and commissions, pursuant to Section, §551.074 (Personnel Matters).**
- 3. Discussion regarding possible purchase of real property in the vicinity of the downtown area, pursuant to Section §551.072 (Real Property) and Section §551.071 (Consultation with Attorney).**
- 4. Discussion regarding possible purchase of real property in the vicinity of SH-205, generally located near Mims Road, pursuant to Section §551.072 (Real Property) and Section §551.071 (Consultation with Attorney).**
- 5. Discussion regarding Economic Development prospects, projects, and/or incentives pursuant to Section 551.087 (Economic Development).**
- 6. Pulled from the public agenda: Appointment Item #1. Appointment with resident Tim Herriage to hear concerns related to the composition (board membership) of the City's Historic Preservation Advisory Board (HPAB), and take any action necessary**

**III. ADJOURN EXECUTIVE SESSION**

**Council adjourned from Executive Session at 5:45 p.m.**

**IV. RECONVENE PUBLIC MEETING (6:00 P.M.)**

**Mayor Fowler reconvened the public meeting at 6:00 p.m. with all seven councilmembers being present.**

**V. INVOCATION AND PLEDGE OF ALLEGIANCE - COUNCILMEMBER CAMPBELL**

**Councilmember Campbell delivered the invocation and led the Pledge of Allegiance.**

## VI. OPEN FORUM

Mayor Fowler explained how Open Forum is conducted and asked if anyone would like to come forth and speak at this time. There being no one indicating such, he then closed Open Forum.

## VII. TAKE ANY ACTION AS A RESULT OF EXECUTIVE SESSION

Mayor Pro Tem Johannesen moved to approve the amendment to the contract for professional services with the city manager. Councilmember Macalik seconded the motion, which passed unanimously of Council (7 ayes to 0 nays).

## VIII. CONSENT AGENDA

1. Consider approval of the minutes from the August 15, 2022, regular city council meeting, and take any action necessary.
2. Consider approval of the minutes from the August 25, 2022 Special (Budget Work Session) Council Meeting, and take any action necessary.
3. **Z2022-036** - Consider a request by David Scott and Christine Fischer for the approval of an ordinance for a Specific Use Permit (SUP) allowing an Agricultural Accessory Building on a ten (10) acre parcel of land identified as Lot 2, Block A, Breezy Hill Lane Addition, City of Rockwall, Rockwall County, Texas, zoned Agricultural (AG) District, generally located at the terminus of Breezy Hill Lane, and take any action necessary (**2nd Reading**).
4. **Z2022-037** - Consider a request by Ryan Joyce on Michael Joyce Properties on behalf of Bill Bricker of Columbia Development Company for the approval of an ordinance for a Zoning Change from an Agricultural (AG) District, Two-Family (2F) District and Light Industrial (LI) District to a Planned Development District for Single-Family 8.4 (SF-8.4) District land uses on a 65.309-acre tract of land identified as the Oak Creek Subdivision; Tract 6 of the G. W. Redlin Survey, Abstract No. 183; and being portions of Tracts 1 & 6-1 of the G. W. Redlin Survey, Abstract No. 183, City of Rockwall, Rockwall County, Texas, zoned Agricultural (AG) District, Two-Family (2F) District and Light Industrial (LI) District, situated within the SH-205 By-Pass Overlay (SH-205 BY-OV) District, generally bounded by John King Boulevard, E. Williams Street, E. Washington Street, and Harry Myers Park, and take any action necessary (**2nd Reading**).
5. **P2022-038** - Consider a request by Bill Bricker of Columbia Extrusion Corporation for the approval of a Conveyance Plat for Lot 1, Block A, Park Station Addition being a 16.26-acre tract of land identified as a Lot 1, Block 1, Indalloy Addition and Tract 31 of the R. Ballard Survey, Abstract No. 29, City of Rockwall, Rockwall County, Texas, zoned Planned Development District 87 (PD-87) for Single-Family 10 (SF-10) District, General Retail (GR) District and Light Industrial (LI) District land uses, located on the southside of E. Washington Street east of the intersection of Park Place Boulevard and E. Washington Street, and take any action necessary.

Councilmember Jorif moved to approve the entire Consent Agenda (#s 1, 2, 3, 4, and 5). Campbell seconded the motion. The ordinance captions were read as follows:

**CITY OF ROCKWALL  
ORDINANCE NO. 22-45  
SPECIFIC USE PERMIT NO. S-286**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROCKWALL,  
TEXAS, AMENDING THE UNIFIED DEVELOPMENT CODE (UDC)  
[ORDINANCE NO. 20-02] OF THE CITY OF ROCKWALL, ROCKWALL**

COUNTY, TEXAS, AS PREVIOUSLY AMENDED, SO AS TO GRANT A SPECIFIC USE PERMIT (SUP) TO ALLOW AN *AGRICULTURAL ACCESSORY BUILDING* ON A TEN (10) ACRE PARCEL OF LAND, IDENTIFIED AS LOT 2, BLOCK A, BREEZY HILL ADDITION, CITY OF ROCKWALL, ROCKWALL COUNTY, TEXAS; AND MORE SPECIFICALLY DEPICTED AND DESCRIBED AND DEPICTED IN EXHIBIT 'A' OF THIS ORDINANCE; PROVIDING FOR SPECIAL CONDITIONS; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

CITY OF ROCKWALL  
ORDINANCE NO. 22-46

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, AMENDING THE UNIFIED DEVELOPMENT CODE [*ORDINANCE NO. 20-02*] OF THE CITY OF ROCKWALL, AS HERETOFORE AMENDED, SO AS TO CHANGE THE ZONING FROM AN AGRICULTURAL (AG) DISTRICT, TWO-FAMILY (2F) DISTRICT, AND LIGHT INDUSTRIAL (LI) DISTRICT TO PLANNED DEVELOPMENT DISTRICT 97 (PD-97) FOR SINGLE-FAMILY 8.4 (SF-8.4) DISTRICT LAND USES ON THE SUBJECT PROPERTY, BEING A 65.309-ACRE TRACT OF LAND IDENTIFIED AS THE OAK CREEK SUBDIVISION; TRACT 6 OF THE G. W. REDLIN SURVEY, ABSTRACT NO. 183; AND PORTIONS OF TRACTS 1 & 6-1 OF THE G. W. REDLINE SURVEY, ABSTRACT NO. 183, CITY OF ROCKWALL, ROCKWALL COUNTY, TEXAS AND MORE FULLY DESCRIBED HEREIN BY *EXHIBIT 'A'* AND DEPICTED HEREIN BY *EXHIBIT 'B'*; PROVIDING FOR SPECIAL CONDITIONS; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

The motion passed by a vote of 7 ayes to 0 nays.

**IX. APPOINTMENT ITEMS**

1. Appointment with resident Tim Herriage to hear concerns related to the composition (board membership) of the City's Historic Preservation Advisory Board (HPAB), and take any action necessary.

**Mr. Herriage came forth and introduced himself. He went on to share comments pertaining to two investment homes he and his wife previously purchased within the City, right near the downtown square. He subsequently purchased an additional home at 501 Kernoodle, and he has spent a great deal of time and money renovating the home.**

**He went on to comment on what he perceives to be the dysfunction of the city's Historic Preservation Advisory Board (the "HPAB"). He went on to share details pertaining to research he has done related to the composition of the city's HPAB, generally expressing concern about some members' terms having recently expired the end of August and several who do not meet the qualifications to serve, according to the city's ordinance. He went on to formally and publicly ask the Council to investigate city staff and a current HPAB board member. He went on to cite several apparent quotes and related details contained within emails he obtained via public information ("open records") requests. He stated that there were no public agendas posted for meetings referenced within the e-mails he has reviewed through those Open Records. He went on to speak**

about how the city replatted four properties into one without so much as a hearing from P&Z or Council review and that the matter was 'fast tracked' and approved without one public hearing.

Following his various accusations and extended commentary, Mr. Herriage asked the Council to suspend all HPAB's meetings unless or until appropriately qualified members are appointed to it to serve (according to requirements laid out in the city's UDC). He stated that the city ignoring his requests and complaints over the past many months has caused him significant financial damage, and he 'reserves the right to all remedies.'

Mayor Pro Tem Johannesen expressed that he is unclear regarding what the 'alleged fraud is' that Mr. Herriage is claiming occurred, asking Mr. Miller to explain. Mr. Miller went on to share details of how a 'cover sheet' is prepared when a case is initially submitted (before he personally even reviews a case) and how the staff member puts the dates that a case "would" go to the P&Z Commission and City Council if it ends up needing to go. In this particular instance (P2021-021), this was an 'amending plat,' which Mr. Miller explained he has the ability to approve because it was not creating any new lots, it was not creating any new entitlements, nor was it requiring any changes to any covenants or restrictions on the plats.

City Attorney Frank Garza shared that the city's regulations and state law do dictate which plats may be approved administratively. He went on to recommend that the Council limit its discussions this evening, in light of Mr. Herriage having indicated that he has an attorney and he has alluded that he may pursue litigation against the city. Mr. Miller shared that the cover sheet in question is not something that gets formally 'filed,' and the approval for P2021-021 was granted 'administratively' in accordance with the Texas Local Government Code.

Mayor Fowler asked that the ordinance that deals with the composition of the HPAB membership be revisited and possibly changed. Mr. Garza shared that, under the Texas Constitution, there is a 'hold over' provision that even if a board member's term expires, a board member may stay in place until a new person is named and takes the Oath of Office. Mr. Garza did agree it's a good idea to look at the existing ordinance and possibly change the classifications to serve. He clarified that when the Council appoints a board member, they are granting a variance to that ordinance, which they do have the authority to do. However, it would be best to change the ordinance provisions (re: board member requirements to serve / the composition of the board). Mayor Pro Tem Johannesen asked for clarification on the current board composition and associated provisions. Mrs. Smith, City Manager, shared that it is a nationwide model that is in place in case the city wants to be eligible to apply for historic preservation grant funds; however, she clarified that the city has never received any such grant funding and likely will never receive such grant funding.

Ryan Miller, Planning Director, provided Mr. Herriage with clarification regarding his specific set of circumstances (on the Kernodle property), sharing that in this instance there is right-of-way dedication involved that was put into a 'reserve.' Therefore, he legally cannot 'administratively' approve Mr. Herriage's replat like had been done with the P2021-021 case. So, Mr. Herriage would have to go before the P&Z and City Council. Mr. Miller also clarified that Mr. Herriage will need to replat the entire property. Mr. Miller explained that at the time of replatting, the right-of-way reserves have to be dedicated. So by going through the replatting process and meeting Chapter 38 of the city's Subdivision ordinance, he would be required to dedicate the right-of-way reservations.

Mayor Fowler encouraged Mr. Herriage to meet with Mr. Miller outside of this city council meeting to discuss technical details as well as the process associated with Mr. Herriage's specific set of circumstances.

Council took no formal action pertaining to this agenda item.

#### X. PUBLIC HEARING ITEMS

1. Hold a public hearing to receive comments regarding the Proposed FY2023 City of Rockwall Budget and tax rate, and take any action necessary.

City Manager, Mary Smith, provided background information regarding this agenda item. She shared that a work session was held with Council concerning the budget more than a week ago. It's been on the city's website, and this public hearing has been advertised publicly as well. The proposed tax rate for the city is being put forth as 29.25 cents, which meets what is needed related to the 'no new revenue rate' (it will result in the city collecting the same amount of money it collected in the prior year, with money also coming in – over and above that – associated with all the new properties that have been added on the tax rolls). Smith indicated that it is also the lowest tax rate the city has ever put forth. She explained that anything above this rate would be viewed as a tax increase and would require public hearings and votes. She suggested that the Council hear public comments on the budget and then discuss further thereafter.

Mayor Fowler opened the public hearing, asking if anyone would like to come forth and speak at this time.

Bob Wacker  
309 Featherstone  
Rockwall, TX 75087

Mr. Wacker came forth and shared that he believes that the city could still keep the tax rate under the 'no new revenue' rate by setting it at 29.90 cents, which he said will result in about \$308,000 in additional revenue for the city to utilize with residents still realizing a lower tax burden.

Following Mr. Wacker's comments and there being no one else wishing to come forth and speak, Mayor Fowler then closed the public hearing.

Mrs. Smith shared that Council does not need to take action this evening – action will transpire at a later meeting. So, no action was taken at this time.

#### XI. ACTION ITEMS

1. **Z2022-038** - Discuss and consider a request by Ryan Joyce on Michael Joyce Properties on behalf of Mike Peoples for the approval of an ordinance for a Zoning Change amending Planned Development District 93 (PD-93) [Ordinance No. 22-22] to incorporate a 21.83-acre tract of land into the existing 93.97-acre tract of land being identified as Tract 4-01 of the M. B. Jones Survey, Abstract No. 122 and Tracts 13 & 25 and a portion of Tracts 10-02, 10-03, 25-1 & 26 of the W. M. Dalton Survey, Abstract No. 72, City of Rockwall, Rockwall County, Texas, zoned Agricultural (AG) District and Planned Development District 93 (PD-93) for Single-Family 10 (DF-10) District land uses, situated within the SH-66 Overlay (SH-66 OV) District, located south of the intersection of Cornelius Road and FM-1141, and take any action necessary (**2nd Reading**).

Mr. Miller shared that this did not receive unanimous approval at the last meeting. So that is why it is under "Action Items" and not "Consent" this evening.

Councilmember Daniels made a motion to approve Z2022-038. Councilmember Jorif seconded the motion. The ordinance caption was read as follows:

**CITY OF ROCKWALL  
ORDINANCE NO. 22-47**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, AMENDING THE UNIFIED DEVELOPMENT CODE [ORDINANCE NO. 20-02] OF THE CITY OF ROCKWALL, AS HERETOFORE AMENDED, SO AS TO AMEND PLANNED DEVELOPMENT DISTRICT 93 (PD-93) [ORDINANCE NO. 22-22], BEING A 115.80-ACRE TRACT OF LAND IDENTIFIED AS TRACT 4-01 OF THE M. B. JONES SURVEY, ABSTRACT NO. 122, AND TRACTS 13 & 25 AND A PORTION OF TRACTS 10-02, 10-03, 25-1, & 26 OF THE W. M. DALTON SURVEY, ABSTRACT NO. 72 CITY OF ROCKWALL, ROCKWALL COUNTY, TEXAS AND MORE FULLY DESCRIBED HEREIN BY EXHIBIT 'A' AND DEPICTED HEREIN BY EXHIBIT 'B'; PROVIDING FOR SPECIAL CONDITIONS; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.**

The motion passed by 6 ayes with 1 nay (Macalik).

2. Discuss and consider appointments to the city's Youth Advisory Council (YAC), and take any action necessary.

City Secretary/Assistant to the City Manager, Kristy Teague provided comments related to this agenda item. She generally explained how many seats are being filled for this school year, how many applicants were received, interviews that were held this past Thursday, and the interview panel's recommended slate of students for the 2022-2023 school year.

Following Mrs. Teague's comments, Councilmember Jorif moved to appoint the returning students and the five new appointees for the 2022-2023 school year. Councilmember Campbell seconded the motion, which passed by a vote of 7 ayes to 0 nays.

3. Discuss and consider (re)appointments to non-regulatory city boards and commissions, and take any action necessary.

**Council did not discuss this item and took no action at this time.**

**XII. CITY MANAGER'S REPORT, DEPARTMENTAL REPORTS AND RELATED DISCUSSIONS PERTAINING TO CURRENT CITY ACTIVITIES, UPCOMING MEETINGS, FUTURE LEGISLATIVE ACTIVITIES, AND OTHER RELATED MATTERS.**

1. Building Inspections Department Monthly Report - July 2022
2. Fire Department Monthly Report - July 2022
3. Parks & Recreation Department Monthly Report - July 2022
4. Police Department Monthly Report - July 2022
5. Sales Tax Historical Comparison
6. Water Consumption Historical Statistics



Mrs. Smith shared that the reopening of Kidz Zone will be held on September 17. In addition, the contractor hired by the city to install and erect the very large flagpole at IH-30 and Horizon is now moving forward. They will be onsite in one week from today to begin unloading their crane, and they expect the 190' flagpole will be erected by end of next week. There is still some electrical-related work yet to be done. So the flag will not be up and flying by next Friday, but they are rapidly working on it.

**XIII. EXECUTIVE SESSION.**

**THE CITY OF ROCKWALL CITY COUNCIL WILL RECESS INTO EXECUTIVE SESSION TO DISCUSS THE FOLLOWING MATTER AS AUTHORIZED BY CHAPTER 551 OF THE TEXAS GOVERNMENT CODE:**

1. Discussion regarding amendment(s) to 'Agreement for Professional Services & Employment as City Manager,' pursuant to Section 551.074 (Personnel Matters).
2. Discussion regarding (re)appointments to city regulatory boards and commissions, pursuant to Section, §551.074 (Personnel Matters).
3. Discussion regarding possible purchase of real property in the vicinity of the downtown area, pursuant to Section §551.072 (Real Property) and Section §551.071 (Consultation with Attorney).
4. Discussion regarding possible purchase of real property in the vicinity of SH-205, generally located near Mims Road, pursuant to Section §551.072 (Real Property) and Section §551.071 (Consultation with Attorney).
5. Discussion regarding Economic Development prospects, projects, and/or incentives pursuant to Section 551.087 (Economic Development).

**XIV. RECONVENE PUBLIC MEETING & TAKE ANY ACTION AS RESULT OF EXECUTIVE SESSION**

**Council did not reconvene in Ex. Session following the close of the public meeting agenda.**

**XV. ADJOURNMENT**

**Mayor Fowler adjourned the meeting at 6:33 p.m.**

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS ON THIS 19<sup>th</sup>  
DAY OF SEPTEMBER, 2022.**



**KEVIN FOWLER, MAYOR**

**ATTEST:**

  
**KRISTY TEAGUE, CITY SECRETARY**



