

MINUTES



ROCKWALL CITY COUNCIL REGULAR MEETING

Monday, November 6, 2023 - 5:00 PM

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

I. Call Public Meeting to Order

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 (re)appointments to city regulatory boards and commissions, pursuant to §551.074 (Personnel Matters).
2. **ACTION ITEM 1.** Discuss and consider status of state law regarding the regulation of Short Term Rentals, and take any action necessary.

III. Adjourn Executive Session

IV. Reconvene Public Meeting (6:00 P.M.)

V. Invocation and Pledge of Allegiance - Councilmember Jorif

VI. Proclamations / Awards / Recognitions

1. Military Family Appreciation Month Proclamation

Mayor Johannesen read this proclamation into the record, thanking military families for all they do in support of our country's service men and women.

VI. Open Forum

Mayor Johannesen explained how Open Forum will be conducted and then called the first speaker to come forth to address Council.

Tim Herriage
2701 Whispering Oaks
Rockwall, TX 75032

He shared that his wife and him are long-term members of the community, and they operate five properties within the city that could be considered 'short-term rentals.' Some of those five properties require renters to stay for a period of at least 30 days, so they are more like 'mid-term rentals.' He went on to share real-life stories of renters he has provided housing to for various reasons over time and how they have benefitted those renters who were in need. He urged Council to look at what the City of San Antonio does to require these types of properties to register with the city and to pay their taxes. He urged Council to

consider families who need and benefit from these types of properties.

Glenn Goodrich
608 Christan Court
Rockwall, TX 75087

Mr. Goodrich shared that he lives in the North Shores neighborhood. He recently had an Air B&B open near his home. He has concerns about corporations who buy residential homes and turn them into these types of properties. These companies are run by people who do not live in our city and do not have any vested interest in our city. He believes these companies take advantage of our beautiful community for the sake of filling up a room. He pointed out he is not allowed to open up 'commercial type' business in his home (i.e. a restaurant, a hotel, a carwash, etc.), so a business of this kind should not be allowed to operate out of a home in a residential neighborhood either. He spoke briefly about how these homes are marketed and the adverse impact they have on our city and our city resources (fire, police, etc.).

Greg Rose
1360 Champions Drive
Rockwall, TX

Mr. Rose stated he has lived here since 1987 and has raised four kids here (in The Shores). He has concerns about short-term rentals, especially related to the type of people who are renting them and the friends they are bringing in. These owners have no stake in our community and no concerns about the impacts on our community. He wants to know if Rockwall wants to be a city of tourists or one of family and community. He generally expressed concerns about short-term rentals operating within the city.

Wilson Murphy
209 Tanya Drive
Rockwall, TX 75087

Mr. Murphy shared he is in favor of regulations being put in place for short-term rentals. He has had experiences with a nearby property not pulling permits before starting work, and trash has also been a big problem (especially at 1400 Ridge Road). He has concerns about safety, including related to a gas line that was recently laid at that particular property and the danger it may be posing. He has concerns about these types of properties not paying hotel/motel taxes and not being subject to any sort of inspections (i.e. health-related inspections, fire inspections, etc.). Also, renters don't have background checks conducted on them, which is a safety concern. He has concerns about 18 year olds being able to rent short-term properties and how that age group may be having parties with up to thirty people (many of whom could be minors/juveniles). He generally urged Council to institute rules and regulations to govern these sorts of properties.

Joy Bounds Murphy
209 Tanya Drive
Rockwall, TX 75087

Mrs. Murphy came forth and spoke about the sanctity of a home and quoted a Bible verse from the book of Isaiah. She urged the Council to create guidelines for short-term rentals in order to protect the sanctity of family homes and neighborhoods in Rockwall. She read the City of Rockwall's mission statement for its Neighborhood Improvement Services Department. She believes short-term rentals, even when they are occupied by respectful renters, diminish the quality of neighborhoods because they lack occupants who are 'true neighbors.' She quoted a recent university study that shows that a proliferation of Air B&B's results in

higher rates of crime. She urged Council to help maintain a sense of community in our neighborhoods.

Vernon Glossup
1600 Plummer Drive
Rockwall, TX 75087

Mr. Glossup shared that his residence is located two houses away from an existing short-term rental (at 1475 Plummer Drive). He stated he is not against Air B&B's; however, he is against them being located within single-family, residential neighborhoods. He pointed out that they are 'businesses,' and homeowners' associations do not allow businesses to operate from their homes. He believes their existence in single-family neighborhoods adversely impacts one's ability to sell their home. He has concerns about parties renting these types of properties, including parking implications on the streets. There are few renters who are respectful, but some are not. The entire neighborhood is impacted by disrespectful renters, and they should not be allowed to exist or operate within neighborhoods. He then passed out handouts for Council to review.

Rella Rogers
1404 Ridge Road
Rockwall, TX

Mrs. Rogers shared that these types of properties (Air B&B's) are businesses, and – as such – they need regulations in place. The one near her home is rented up to 16 people at a time. Renters there have resulted in many calls to the police, including loud noise as well as trash-related concerns. She urged the City of Rockwall to up its game and do everything possible to institute clear regulations as soon as possible. She urged Council to protect the homeowners of Rockwall – the taxpayers and the ones who have a vested interest in our city. There are already problems happening with short-term rentals, and she urged the Council to take action to regulate them.

Terri Nevitt
201 Becky Lane
Rockwall, TX 75087

Mrs. Nevitt gave Council some handouts to review. She then shared that there are a minimum of 10 Air B&B's within a quarter mile of her home. She pointed out that this is not a theoretical problem. It is a real problem, and it's especially problematic that they are not regulated. She went on to suggest various ways that the city might regulate these types of properties (i.e. limit on number of renters, limit on number of parking spaces they're allotted; requirement to pay hotel/motel taxes; lighting restrictions; restrictions on hours (i.e. for the swimming pools)). She generally urged Council to institute regulations.

M. Toni Humes
624 Courageous Drive
Rockwall, TX 75032

Mrs. Humes shared that she has lived in Rockwall since 1972. She has two short-term rentals in her immediate neighborhood, both of which have posed crucial detriments to her and her family. She urged Council to only allow these types of businesses in 'commercial' areas and not allow them within residentially zoned areas. The noise emitting from these properties is not regulated. Trash is concerning. Security is concerning. Neighbors become 'un-neighborly' regarding short-term rentals. She wants regulations put in place to help ensure safety and the mental health for (permanent) residents living in our neighborhoods. These types of properties are not desirable within residential neighborhoods. They cause

neighborhoods to become unhealthy within a very short period of time.

Norma Muncy
1330 Champions Drive
Rockwall, TX 75087

Mrs. Muncy shared that she is 82 years old and her husband is 85 years old, and he was born in Rockwall. They have lived here 'forever.' She and her husband walk 3 miles per day in their neighborhood. Garbage at short-term rentals is piled high all the time. A young couple next door brought their dream home backing up to a golf course, and it was great until a short-term rental opened up next door. The short-term rental is like a 'Motel 6,' and the young couple has encountered numerous, nightmarish problems as a result of it opening and operating next to them. The Shores neighborhood used to be a beautiful place to be, but it is no longer because of the short-term rentals.

Greg Oehler
207 Tanya Drive
Rockwall, TX 75087

Mr. Oehler pointed out that several citizens have come forth this evening to share concerns about the negative impacts short-term rentals have on them and their neighborhoods. They are in fact businesses. One property he is aware of had to have major issues addressed because of it not being properly maintained. If someone is living next door to a poorly maintained short-term rental, their ability to sell their home is likely challenging. He spoke about the costs and risks to the city, pointing out that short-term rentals result in a loss of revenue and economic development for the city. He believes these properties could very easily be regulated. He pointed out the city's Unified Development Code already prohibits 'businesses' operating within a residential neighborhood. He stated that if the city enforces one portion of its UDC and not another, then it is opening up a can of worms as far as potential litigation is concerned.

Kathryn Oehler
207 Tanya Drive
Rockwall, TX

She shared that her family has lived in Rockwall since 1990 and they have grown children who are now in their 30's. She believes in teaching her kids to leave things better than when they found them. She pointed out that homes for sale on the market are being bought up by high-bidding corporations who are buying up residential properties to turn them into short-term rentals. This is resulting in an entire, younger generation not being able to enjoy owning their own homes (because of the competition and the greed). She has concerns about these types of properties.

Sandra Solomon
1635 Shores Boulevard
Rockwall, TX 75087

Mrs. Solomon shared that she is tired of hearing statements like 'wait and see what the city does,' or 'wait and see what the state does.' She and her husband moved here in 1988 and chose a home in The Shores neighborhood for many reasons. She pointed out that there have been several changes to her neighborhood, the golf course and the city over time. She has no desire for a motel to locate next to her home. She shared that these types of properties (short-term rentals) are not the same as a neighbor next door having parties. She is not sure that short-term renters have the same concerns as permanent residents have (i.e. related to garbage being left out all week; loud noise that results in babies not being

able to sleep). She shared that she has overseen the 'dues' for her HOA for over 20 years. Now, with these types of properties, she is having to converse with strangers. She shared that short-term renters do not care about safety-related concerns (i.e. fire trucks not being able to pass through the street). She does not approve of Air B&Bs being in single-family neighborhoods. It is not fair, and rules need to be put in place.

Judy Dickson
205 Meadowdale Drive
Rockwall, TX 75087

Mrs. Dickson shared that she has been here in the same home since 1977. She has concerns about short-term rentals being located within residential neighborhoods because they are commercial businesses / enterprises. She went on to express various concerns about these types of properties and the negative aspects and impacts they have on the adjacent, nearby homes. She believes that regulations should be put in place by the City. She quoted some things out of the TX Property Code and the TX Tax Code, pointing out differences between short-term rentals and regular single-family home properties. She wonders what positive benefit short-term rentals have, and she believes they do not contribute positively to our city.

Bob Wacker
309 Featherstone
Rockwall, TX

Mr. Wacker shared that very few Air B&B's actually provide breakfast. He stated that his Stonecreek Estates neighborhood has regulations in place that allow no rentals that are less than 30 days in duration. He urged the City to come up with regulations to help address some of the problems that come with short-term rentals. He does not believe that these can be outright banned; however, he urged Council to institute a rule that all rentals must be for a minimum of 6 months in length, and then fine them if they do not adhere.

Paulette Weddle
1601 S. Alamo
Rockwall, TX 75087

Mrs. Weddle shared that Plano may have just banned short-term rentals for a period of one year. She suggested Council consider banning them or putting a moratorium in place to allow a committee to be formed to come up with ideas for how to regulate these businesses. Perhaps the city's Planning Director, legal counsel and citizens could help serve on such a committee. She shared that she was frightened on the morning of October 29 recently. The home at 1400 Ridge Road is located right behind her home, and she heard the renters back in to the driveway after midnight and make their way down to the party barn on the property. They left about 4:25 a.m., and it scared her. Having no regulations results in pretty scary situations.

Amy Herbst
1509 South Alamo Road
Rockwall, TX 75087

Mrs. Herbst came forth and shared some photos taken on October 21, including pictures of the lit up 'party barn' at 1400 Ridge Road. Multiple cars were coming up and down the alleyway, and – at the same time – at the party barn, loud noises were being emitting (loud talking and reveling until the police came out and quieted them down). A lot of vehicles and people were coming and going at that home between midnight and after 4:00 a.m., and it was unsettling and scary to her and her neighbors. She pointed out that the trash that was left behind was notable, and racoons got into it and scattered it around. She showed multiple

pictures of what she and her neighbors are experiencing due to the short-term rental at 1400 Ridge Road.

Erica Lyle
1603 S. Alamo Road
9605 Arden Drive
Rockwall, TX 75087

Mrs. Lyle shared that the Alamo home is diagonally across from the short-term rental at 1400 Ridge Road. She pointed out how close the short-term rental is right on the property line of Amy Herbst's property, and all of that activity between midnight and 4 AM is right by where she is living and trying to sleep (her bedroom window). With short-term rentals, who knows who is coming across our nation's borders – they may be staying in short-term rentals in our communities, feet from our backyards. Who are the people who are renting out short-term rentals? These sorts of things are concerning. She thanked Council for listening to the various speakers, expressing that they really do appreciate an opportunity to be heard. When Ridge Road was rezoned as "Commercial-Residential" about 14 years ago, that was concerning. She asked Council to be very specific about how those types of properties are regulated.

Madison Lyle
1603 South Alamo Road
Rockwall, TX

Mr. Lyle shared that he and his wife are currently remodeling the home on Alamo, and they plan to move back into it full-time after it is remodeled. He is very angry about living in a residential home where a party barn is located right behind their family's home. Having parties and trash and loud noises until 4:00 in the morning is ridiculous. He is irate but is trying to maintain his composure. He feels sorry for all of his neighbors. He urged Council to "vote this down with prejudice." He has used Air B&B's himself when he's been on vacation, so maybe he is a hypocrite.

There being no one else wishing to speak, Mayor Johannesen thanked everyone for coming forth to speak and express their concerns. This is part of open, transparent government.

VIII. Take Any Action as a Result of Executive Session

Councilmember Moeller moved to appoint Mrs. Revi Menasche to replace Stephen Colon on the city's Main Street Advisory Board for an unexpired term thru January of 2025. Councilmember Jorif seconded the motion, which passed by a vote of 7 ayes to 0 nays.

IX. Consent Agenda

1. Consider approval of the minutes from the Oct. 16, 2023 city council meeting, and take any action necessary.
2. **Z2023-045** - Consider a request by Cari Foote of CFPC Investments, LLC for the approval of an ordinance for a Zoning Change amending Planned Development District 50 (PD-50) [Ordinance No. 17-19] for the purpose of allowing the *General Personal Services* land use by Specific Use Permit (SUP) for all properties within the district, being a 21.266-acre tract of land situated within the S. S. McCurry Survey, Abstract No. 146 and B. F. Boydston Survey, Abstract No. 14, City of Rockwall, Rockwall County, Texas, zoned Planned Development District 50 (PD-50) for Residential-Office (RO) District land uses, situated within the North Goliad Corridor Overlay (NGC OV) District,

generally located along N. Goliad Street [SH-205] north of Olive Street and south of Live Oak Street, and take any action necessary (2nd Reading).

3. **Z2023-046** - Consider a request by Javier Silva of JMS Custom Homes, LLC on behalf of Ruben Fragoso of RSR Capital, LLC for the approval of an **ordinance** for a Specific Use Permit (SUP) for *Residential Infill Adjacent to an Established Subdivision* for the purpose of constructing a single-family home on a 0.22-acre parcel of land identified as Lot C, Block 112, B. F. Boydston Addition, City of Rockwall, Rockwall County, Texas, zoned Planned Development District 52 (PD-52) and Single-Family 7 (SF-7) District, situated within the Southside Residential Neighborhood Overlay (SRO) District, addressed as 715 Sherman Street, and take any action necessary (2nd Reading).
4. **Z2023-048** - Consider a request by Clay Cristy of ClayMoore Engineering on behalf of Staci Bowen of Metroplex Acquisitions for the approval of an **ordinance** for a Specific Use Permit (SUP) for a *Restaurant with Less Than 2,000 SF with a Drive-Through or Drive-In* for the purpose of constructing a restaurant (i.e. *HTeaO*) on a 0.93-acre portion of a larger 5.16-acre parcel of land identified as Lot 13, Block A, Stone Creek Retail Addition, City of Rockwall, Rockwall County, Texas, zoned Planned Development District 70 (PD70) for General Retail (GR) District land uses, situated within North SH-205 Overlay (N. SH-205 OV) District, generally located at the northeast corner of the intersection of N. Goliad Street [SH-205] and Bordeaux Drive, and take any action necessary (2nd Reading).
5. **P2023-031** - Consider a request by Michael Hunter for the approval of a Final Plat for Lot 1, Block A, Hunter Addition being a 0.631-acre tract of land identified as Lot 1, Block A, Barz Acre Addition and Lot 1, Block 1, Reeves Addition, City of Rockwall, Rockwall County, Texas, zoned Single-Family 10 (SF-10) District, addressed as 220 W. Quail Run Road, and take any action necessary.
6. **P2023-032** - Consider a request by Matthew Peterson of DB Constructors, Inc. on behalf of Jeff Fleming of Jeff Fleming Investments, LLC for the approval of a Final Plat for Lots 1 & 2, Block A, Interstate Classic Cars Addition being a 3.853-acre tract of land identified as Tract 2-09 of the J. A. Ramsey Survey, Abstract No. 186, City of Rockwall, Rockwall County, Texas, zoned Planned Development 46 (PD-46) District for Commercial (C) District land uses, situated within the SH-276 Overlay (SH-276 OV) District, generally located on the southside of Springer Road east of the intersection of Springer Road and Corporate Crossing, and take any action necessary.
7. **P2023-033** - Consider a request by Aaron Davis of John King, LLC for the approval of a Final Plat for Lot 1, Block A, John King Office Park being a 2.361-acre tract of land identified as Tract 1-2 of the W. H. Baird Survey, Abstract No. 25, City of Rockwall, Rockwall County, Texas, zoned Planned Development 10 (PD-10) for Commercial (C) District land uses, situated within the SH-205 By-Pass Overlay (SH-205 BY-OV) District, addressed as 1940 S. John King Boulevard, and take any action necessary.
8. **P2023-035** - Consider a request by Drew Donosky of ClayMoore Engineering on behalf of Chase Cooley of 1540 East IH-30 Rockwall, LLC for the approval of a Replat for Lot 3, Block 1, Rockwall Recreational Addition being a 4.39-acre parcel of land identified as Lot 2, Block 1, Rockwall Recreational Addition, City of Rockwall, Rockwall County, Texas, zoned Light Industrial (LI) District, situated within the IH-30 Overlay (IH-30 OV) District, addressed as 1540 E. IH-30, and take any action necessary.
9. **P2023-036** - Consider a request by Jeff Carroll of Carroll Architects, Inc. on behalf of Jon Bailey of Helping Hands Rockwall for the approval of a Final Plat for Lot 1, Block A, Helping Hands Addition

being an 9.70-acre tract of land identified as Lot 1, Block A, Waggoner Gardens Inc. Addition, City of Rockwall, Rockwall County, Texas, zoned Commercial (C) District, addressed as 950 Williams Street, and take any action necessary.

10. **P2023-037** - Consider a request by Cameron Slown, PE of Teague, Nall, and Perkins, Inc. on behalf of Randall Noe of Rockwall Rental Properties, LP for the approval of a Replat for Lots 17-24, Block 1, Alliance Addition, Phase 2 being a 3.06-acre tract of land identified as Lots 12-14, Block 1, Alliance Addition, Phase 2, City of Rockwall, Rockwall County, Texas, zoned Planned Development District 57 (PD-57) for Commercial (C) District land uses, generally located at the northeast corner of the intersection of Andrews Drive and Alliance Drive, and take any action necessary.
12. Consider authorizing the City Manager to execute a purchase order with Nema Electric in the amount of \$85,134.00 for the installation of LED light in fountain and basins of The Harbor to be funded out of Harbor Operating Budget (this is an approved 2023-2024 budget request), and take any action necessary.
13. Consider authorizing the City Manager to execute a purchase order with Custard Construction Services in the amount not to exceed \$32,200.00 for the installation of insulation in the Park Building at the Service Center to be funded out of Parks Operating Budget (this is an approved 2023-2024 budget request), and take any action necessary.
14. Consider authorizing the City Manager to execute a contract for professional engineering services with Birkhoff, Hendricks and Carter LLP to perform the water/wastewater impact fee update and to update the Master Water/Wastewater Plans in an amount not to exceed \$180,000 to be funded out of the Sewer Department Operation Budget, and take any action necessary.
15. Consider authorizing the City Manager to execute a contract with Birkhoff, Hendricks & Carter L.L.P. for engineering services for the Mims Elevated Water Storage Tank in the amount of \$691,600.00 to be paid for out of the Water and Sewer Bond Funds, and take any action necessary.
16. Consider awarding a bid to Silsbee Ford for the purchase of model year 2024-25 vehicles for a total amount of \$133,726 to be funded by Water and Sewer Operating Budgets, as well as authorizing the City Manager to execute associated purchase orders, and take any action necessary.
17. Consider authorizing the City Manager to execute a grant agreement with the Texas Department of Transportation Aviation Division for participation in the Routine Airport Maintenance Program (RAMP) at the Ralph M. Hall / Rockwall Municipal Airport, with matching funds for the grant to be provided by the Airport Operating Budget, and take any action necessary.
18. Consider authorizing the City Manager to execute a contract with UTA in the amount not to exceed \$70,000.00 to provide a musician/artist for the 2024 Founders Day Festival at Harry Myers Park to be funded out of Hot Funds (this is an approved 2023-2024 Hot Fund request), and take any action necessary.
19. Consider authorizing the City Manager to execute a contract with Birkhoff, Hendricks & Carter L.L.P. for engineering services for the Southside Elevated Water Storage Tank Rehabilitation in an amount of \$83,600.00 to be paid from Water Operation Budget, and take any action necessary.
20. Council consider authorizing the City Manager to execute a contract for the emergency repairs for

the Squabble Creek Lift Station Pump with Pump Solutions, Inc., in an amount not to exceed \$43,706.00, to be funded from Sewer Operations Budget, and take any action necessary.

21. Consider awarding a bid to Rockdale Country Ford for a new (Fire Marshal Department) vehicle in the amount of \$50,330.00 to be funded by the Fire Marshal Operating Budget, including authorizing the City Manager to execute associated purchase order(s) for the vehicle, and take any action necessary.
22. Consider approval of Hotel Occupancy fund to Rushcreek Yacht Club in the amount of \$3,000, and authorize the City Manager to execute the contract, and take any action necessary.
23. Consider approval of an ordinance updating purchasing policy limits, and take any action necessary.

Councilmember Lewis moved to approve the entire Consent Agenda (#s 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 23). Councilmember Campbell seconded the motion. The ordinance captions were read as follows:

**CITY OF ROCKWALL
ORDINANCE NO. 23-60**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS AMENDING PLANNED DEVELOPMENT DISTRICT 50 (PD-50) [ORDINANCE NO. 17-19] AND THE UNIFIED DEVELOPMENT CODE [ORDINANCE NO. 20-02] OF THE CITY OF ROCKWALL, AS HERETOFORE AMENDED, FOR THE PURPOSE OF AMENDING PLANNED DEVELOPMENT DISTRICT 50 (PD-50) TO ALLOW AN *GENERAL PERSONAL SERVICE* LAND USE TO BE PERMITTED BY A SPECIFIC USE PERMIT (SUP) WITHIN THE SUBJECT PROPERTY, BEING A 21.266-ACRE TRACT OF LAND SITUATED WITHIN THE S. S. McCURRY SURVEY, ABSTRACT NO. 146 AND B. F. BOYDSTON SURVEY, ABSTRACT NO. 14, CITY OF ROCKWALL, ROCKWALL COUNTY, TEXAS AND MORE FULLY DESCRIBED HEREIN BY *EXHIBIT 'A'* OF THIS ORDINANCE; PROVIDING FOR SPECIAL CONDITIONS; PROVIDING FOR A PENALTY OF A 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. 23-61
SPECIFIC USE PERMIT NO. S-318**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, AMENDING PLANNED DEVELOPMENT DISTRICT 52 (PD-52) [ORDINANCE NO. 02-14] AND 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) FOR *RESIDENTIAL INFILL ADJACENT TO AN ESTABLISHED SUBDIVISION* TO ALLOW THE CONSTRUCTION OF A SINGLE-FAMILY HOME ON A 0.22-ACRE PARCEL OF LAND, IDENTIFIED AS LOT C, BLOCK 112, B.F. BOYDSTON ADDITION, CITY OF ROCKWALL, ROCKWALL COUNTY, TEXAS; AND MORE SPECIFICALLY 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. 23-62
SPECIFIC USE PERMIT NO. S-319

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, AMENDING PLANNED DEVELOPMENT DISTRICT 70 (PD-70) [ORDINANCE NO. 19-41] AND 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) FOR A *RESTAURANT WITH LESS THAN 2,000 SF WITH DRIVE-THROUGH OR DRIVE-IN* ON A 0.93-ACRE PORTION OF A LARGER 5.16-ACRE PARCEL OF LAND IDENTIFIED AS LOT 13, BLOCK A, STONE CREEK RETAIL ADDITION, CITY OF ROCKWALL, ROCKWALL COUNTY, TEXAS; AND MORE SPECIFICALLY DESCRIBED AND DESCRIBED IN *EXHIBIT 'A'* AND DEPICTED IN *EXHIBIT 'B'* 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. 23-63

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, REPEALING ORDINANCE NO. 04-18 AND ESTABLISHING GENERAL AUTHORITY FOR PURCHASING POLICIES FOR THE CITY; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

The motion to approve the entire Consent Agenda passed by a vote of 7 ayes to 0 nays.

X. Action Items

1. Discuss and consider status of state law regarding the regulation of Short Term Rentals, and take any action necessary.

City Attorney, Frank Garza, came forth and provided a lengthy, detailed presentation regarding short-term rentals, including details concerning state level legislation that has been introduced yet not passed as well as litigation / court cases pertaining to the subject.

Councilmember Campbell sought clarification on the zoning pertaining to short-term rentals. Mr. Garza pointed out that many court cases have ruled that short-term rentals are not considered 'commercial' in nature and cannot be zoned as such. They are and continue to be considered 'residential' in nature.

In response to Councilmember Jorif seeking further clarification, Mr. Garza explained that HOAs have to have had deed restrictions in place already. Then, HOAs can take proper steps to amend deed restrictions in order to try and prohibit short-term rentals. He indicated that most deed restrictions require 75% of homeowners to be on board with passing deed restriction amendments.

Councilmember McCallum shared that the topic of short-term rentals ("STRs") has been brought up in the past, prior to him coming onto the city council, and no action has been taken thus far. He then sought clarification on the possibility of putting some sort of regulations in place related to STRs.

Mayor Johannesen pointed out that any regulations the city might put into place have to apply to every property throughout the city. He also pointed out that the city already has regulations in place to deal with things like noise and sanitation related concerns.

Councilmember McCallum shared that he loves to stay in an Air B&B each time he travels to Santa Fe. He went on to encourage residents to continue to be active, especially when it comes to their state representatives and legislation related to STRs. He is conservative and believes in property owner rights, but not at the expense of other people.

Councilmember McCallum went on to make a motion to direct staff and the city attorney to come back to Council with a set of proposed regulations to handle things like registration, safety inspections, fire safety, and some of the other suggestions this evening so that the council can consider them related to short-term rentals. Councilmember Jorif seconded the motion, agreeing that we need regulations in place, especially related to health and safety. Councilmember Lewis stated he will go and read the City of San Antonio's regulations. He also pointed out he would like to see some things like 'distance requirements' relative to short-term rentals. Councilmember Moeller shared he would like to see things like commercial insurance for these 'commercial' properties. Councilmember Thomas pointed out that, despite a lot of the negative comments and impacts of short-term rentals, there are also many benefits (i.e. when a local resident has a home flood and needs a place to go; home remodeling going on that requires short-term relocation). Having said that, he does believe the city can do some things to try and ensure that some regulations are put in place. Mayor Johannesen shared that he and his family are currently staying in a short-term rental because they had a pipe burst in their home. Having said that, he and the couple they are renting from are in favor of some sort of regulations being put into place. Councilmember Campbell also expressed support for some sort of regulations to be put in place.

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

2. Discuss and consider a status update from the Rockwall Area Chamber of Commerce regarding Hotel/Motel Occupancy Tax ("HOT") funding received, and take any action necessary.

Jodi Willard, Director of Tourism at the Chamber, came forth and shared that she has been working for the local Chamber of Commerce since June. She is focused on helping promote the city for the betterment of businesses and residents of Rockwall. She indicated that the Chamber is currently working to develop a strategic plan. She went on to share the various ways in which she and the Chamber are involved in marketing efforts, especially through social media outlets (Facebook, Instagram and Linked-In) but also through 'print' related efforts, a digital billboard along IH-30, and television (i.e. WFAA TV's "Family First" program).

Councilmembers Lewis, Thomas and Campbell provided brief, positive comments pertaining to the Chamber's staff members and their efforts related to positively promoting Rockwall. No action was taken by Council following Ms. Willard's presentation.

3. **MIS2023-014** - Discuss and consider a request by Alan M. Jacob of Car Wash Pro Designers on behalf of Jim Dunn for the approval of a *Miscellaneous Case* for a *Variance* to the underground utility requirements in conjunction with a proposed car wash on a 6.17-acre tract of land identified as Tract 3-09 of the J. M. Allen Survey, Abstract No. 2, City of Rockwall, Rockwall County, Texas, zoned Planned Development District 10 (PD-10), generally located at the

northwest corner of the intersection of John King Boulevard and SH-276, and take any action necessary.

Mr. Miller, Planning Director, provided background information concerning this item. He indicated that it is located on the northwest corner of John King Boulevard and SH-276. The applicant is requesting a variance to the utility requirements to allow the existing overhead power lines to remain in place (instead of being required to place them underground). In considering this request, staff noted that in previous cases for similar requests, the City Council and Planning and Zoning Commission have not approved variances relating to the undergrounding of utilities due to the potential of creating a precedence; however, in August 2022 the City Council did grant the Rockwall Economic Development Corporation (REDC) [i.e. Case No. MIS2022-011] a variance allowing the delay of undergrounding certain utility distributing lines along SH-276 between John King Boulevard and Rochelle Road, and a waiver to the underground utility requirements for a non-residential subdivision [i.e. Creekside Commons Subdivision] at the southeast corner of FM-1139 and SH-205 [Case No. MIS2022-010]. The waiver for the Creekside Commons Subdivision was granted due to the costs associated with the undergrounding of the distribution lines along SH-205 and FM-549. With this being said, requests for variances are considered on a case-by-case basis at the discretion of the City Council pending a recommendation from the Planning and Zoning Commission. On November 1, 2023, the Planning and Zoning Commission reviewed the applicant's request and approved a motion to recommend approval by a vote of 4 - 0, with Commissioners Deckard, Conway, and Llewelyn absent. This request will require a super majority vote of Council in order to for the variance to be approved.

Alan Jacobs (applicant) out of Chicago, Illinois, came forth and addressed the Council at this point. He pointed out that his request for this utility-related variance is described in detail in his request letter. He believes that all adjacent properties have utilities located overhead. So, if he is required to place utilities underground, his property would be the 'odd man out.' He pointed out that placement of the utilities underground presents a very costly investment (somewhere around a half million dollars to do so). So, this is cost prohibitive for him / his client.

Mr. Miller clarified that three, previous requests have been made for waivers to underground placement of utility lines, and he clarified how the Council voted regarding those past requests.

Mayor Johannesen pointed out that Council is not in the business of solving math problems when a developer cannot afford to abide by city requirements.

City Manger Mary Smith commented on the city's requirements to have utilities placed underground and the challenges that poses for areas along TXDOT (state-owned) roadways. She shared that there is no way for utilities to go underground until which time as development occurs. So, you end up with 'piece meal.' This business really would be the only one in that entire segment of roadway with the utilities placed underground. She shared that the REDC is considering coming before Council to ask for a variance on underground utilities because they are facing a price tag of somewhere around \$10 million dollars. So, the city is going to have to evaluate underground utilities along state roadways, as neither TXDOT nor Oncor will spend money to 'underground' them. In areas where development has already occurred and utilities are already above ground, those areas will continue to have them above ground unless or until the city goes in and spends tax dollars to place them underground, something she believes the city is generally not willing to do.

Councilmember Thomas shared that, from the beginning, the applicant has been told by staff that the underground utilities would be required. Mr. Jacobs shared that, yes, that was conveyed, but they just

recently found out the estimated cost. Mr. Jacobs shared that burying electric utility lines pose safety concerns. Mayor Johannesen expressed the belief that the possibility of underground lines posing safety concerns is not backed by data.

Councilmember McCallum shared that it's not the city council's job to solve math problems, and he was on the Council that previously created planned development districts. His vision back then and his vision now is that development is controlled and that utility lines are to be placed underground. He pointed out that the Rockwall Economic Development Corporation did not ask for an outright variance. They were only granted additional time to eventually place them underground. If the REDC had asked for an outright variance, he would not have been in favor of that either.

Councilmember Jorif provided brief comments and then made a motion to deny MIS2023-014. Councilmember Moeller seconded the motion, pointing out that a 7-11 store was required to put their lines underground. Following brief comments, the motion to deny passed by a vote of 7 ayes to 0 nays.

4. **MIS2023-016** - Discuss and consider a request by Ryan Joyce of Michael Joyce Properties for the approval of a *Miscellaneous Case* for an *Alternative Tree Mitigation Settlement Agreement* for the Peachtree Subdivision being a 140.50-acre tract of land identified as Tract 5 of the J. R. Johnson Survey, Abstract No. 128 and Tract 3 of the G. Wells Survey, Abstract No. 219, City of Rockwall, Rockwall County, Texas, zoned Agricultural (AG) District, generally located on the southside of Mims Road west of the intersection of Mims Road and National Drive, and take any action necessary.

Mr. Miller, Planning Director, provided background information related to this agenda item. With this development application, the applicant is requesting an *Alternative Tree Mitigation Settlement Agreement* for the Peachtree Subdivision. The Peachtree Subdivision was established by the City Council on March 6, 2023 through the adoption of Ordinance No. 23-11 [Planned Development District 101 (PD-101); Case No. Z2023-003]. According to this Planned Development (PD) District ordinance, the Peachtree Subdivision is a 140.50-acre residential subdivision that will consist of 292 residential lots with a gross density of 2.08 dwelling units per acre. These lots will consist of four (4) lot types - [1] 32, Type 'A' lots that will be a minimum of 82' x 120' (or 9,000 SF), [2] 98, Type 'B' lots that will be a minimum of 72' x 120' (or 8,400 SF), [3] 105, Type 'C' lots that will be a minimum of 62' x 120' (or 7,200 SF), and [4] 57, Type 'D' lots that will be a minimum of 52' x 120' (or 6,000 SF). In addition, the development will consist of a total of 65.90-acres of open space that includes a 0.90-acre amenity site, 21.10-acres of private open space, and 43.90-acres of floodplain. Currently, the subject property remains undeveloped, and the applicant has received approval for a Preliminary Plat [Case No. P2023-017] and a Master Plat [Case No. P2023-016]. Based on the most recent aerial image, the subject property has a thick tree canopy, the majority of which is located within the 100-year floodplain. According to the applicant's letter, the *Alternative Tree Mitigation Settlement Agreement* is being requested "(d)ue to changes in the tree ordinance on how cedar trees are counted, [and based on this] there is an exponential amount of work in documenting all trees on the property." On October 3, 2022, the City Council approved Ordinance No. 22-54 [Case No. Z2022-043], which changed the tree mitigation requirements for cedar trees. Specifically, under the previous tree mitigation requirements cedar trees were counted at a rate of ½-inch for every one (1) inch removed for cedar trees 11-inches or greater in size. Under the new tree mitigation requirements, cedar trees require four (4) caliper inches of mitigation for every cedar tree removed that is eight (8) feet or greater in height. In the applicant's letter, they have provided the following estimates for the tree mitigation required for the cedar trees on the subject property based on the previous tree mitigation ordinance and the current tree mitigation

ordinance: In staff's conversations with the applicant, the applicant has indicated that there would be a substantial cost associated with having the trees surveyed and marked on the subject property in accordance with the requirements of the new ordinance. In lieu of performing a tree survey, the applicant has indicated a desire to pay the City the costs that would be incurred with the tree survey, in addition to the estimated tree mitigation, and some additional mitigation measures. In addition, to the above mitigation proposal the applicant has also agreed to designate and preserve a one (1) acre tract of the Blackland Prairie. As the City Council and Planning and Zoning Commission may recall, this was originally requested by City staff as part of the original zoning case for Planned Development District 101 (PD-101); however, the applicant had indicated at that time that based on the floodplain and lots needed to meet their proforma they were unable to commit to the preservation during the zoning case. Through the design process the applicant's drainage and detention area was able to be adjusted to allow for the one (1) acre dedication. If this case is approved by the City Council, this dedication will be required to be shown on the subdivision plat for the subdivision (see Figure 3). Staff should note that the applicant's request will be above and beyond the requirements of Ordinance No. 23-11, and that the applicant will be required to provide [1] the 50-foot landscape buffer with berm and two (2) rows of staggered cedar trees along the eastern property line, and [2] a 30-foot tree preservation easement along the southern property line in accordance with the zoning ordinance. In addition, the applicant will be required to hold a Tree Transplanting Day, and -- based on the proposed agreement -- will not receive any additional benefit from trees that are transplanted by residents during this event (i.e. the applicant cannot account for additional mitigation resulting from trees removed from the property during the event).

The City's Planning & Zoning Commission recently heard this case and voted 4 – 0 (with 3 commissioners being absent) to recommend approval of this request.

Ryan Joyce, the applicant, then came forward and provided a brief presentation to Council concerning this request. He showed a photo of some of the trees he is desiring to take out, pointing out that the property has been vacant for so long that there is severe overgrowth of trees, which are mainly 6" in caliber but are over 8' tall. He also showed his proposed 'treescape plan,' pointing out that they have done all they possibly can to work with the site.

Councilmember Thomas expressed that he likes that the applicant is including a dedication of part of the Blackland Prairie.

Brief comments were made by Councilmember McCallum regarding the amenities center.

Councilmember Moeller asked if the developer could add some sort of signage about the Blackland Prairie, and Mr. Joyce shared that they can do so.

Councilmember Thomas moved to approve MIS2023-016. Councilmember Jorif seconded the motion, which passed by a vote of 6 ayes with 1 nay (McCallum).

5. Discuss and consider approval of a resolution providing for the casting of votes and submission of the official voting ballot to the Rockwall Central Appraisal District (CAD / RCAD) for the 2024 - 2025 Appraisal District Board of Directors, and take any action necessary.

City Manager, Mary Smith provided brief comments pertaining to the ballot, which has been included in the informational meeting packet this evening.

Councilmember Thomas moved to split all of the city's (380) votes evenly (76 votes per candidate) on the

Board of Directors ballot submission to the Rockwall Central Appraisal District (RCAD). Councilmember McCallum seconded the motion, which passed by a vote of 7 ayes to 0 nays.

XI. 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
2. Budget Report – Quarter End September 30, 2023
3. Fire Department Monthly Report
4. Parks & Recreation Department Monthly Report
5. Police Department Monthly Report
6. Sales Tax Historical Comparison
7. Water Consumption Historical Statistics

Mrs. Smith reminded Council that a lot of events are coming up over the course of the coming weeks, so please be watching for staff's communication regarding those events.

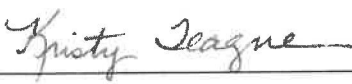
XII. Adjournment

Mayor Johannesen adjourned the meeting at 8:24 p.m.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS ON THIS 20th DAY OF NOVEMBER, 2023.


TRACE JOHANNESSEN, MAYOR

ATTEST:


KRISTY TEAGUE, CITY SECRETARY

