



ROCKWALL CITY COUNCIL REGULAR MEETING

Monday, February 5, 2024 - 5:00 PM

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

I. Call Public Meeting to Order

Mayor Johannesen called the public meeting to order at 5:00 p.m. Present were Mayor Trace Johannesen, Mayor Pro Tem Anna Campbell and Councilmembers Sedric Thomas, Clarence Jorif, Mark Moeller, Dennis Lewis and Tim McCallum. Also present were City Manager Mary Smith, Assistant City Manager Joey Boyd, and City Attorney Frank Garza. Mayor Johannesen then read the below-listed discussion items into the public record before recessing the meeting to go into Executive Session.

II. Executive Session

1. Discussion regarding Brandy and Wayne Lutz v. The Shores (City of Rockwall, Intervenor), Cause No. 1-22-0425, pursuant to Section 551.017 (Consultation with Attorney)
2. Discussion regarding legal options on possible amendments to the city's Unified Development Code (UDC) and the Municipal Code of Ordinances, pursuant to Section 551.071 (Consultation with Attorney).
3. Discussion regarding Economic Development prospects, projects, and/or incentives pursuant to Section 551.087 (Economic Development)
4. Discussion regarding (re)appointments to city regulatory boards, commissions, and committees - specifically the Rockwall Economic Development Corporation's (REDC) Rockwall ISD Liaison position - pursuant to Section 551.074 (Personnel Matters)

III. Adjourn Executive Session

Council adjourned from Ex. Session at 5:55 p.m.

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

Mayor Johannesen reconvened the public meeting at 6:00 p.m.

V. Invocation and Pledge of Allegiance - Councilmember Moeller

Councilmember Moeller delivered the invocation and led the Pledge of Allegiance.

VI. Proclamations / Awards / Recognitions

1. Health for Humanity Yogathon Proclamation

Mayor Johannesen called forth those who requested this proclamation (a non-profit organization called

Hindu Swayamsevak Sangh (HSS)) and then read and presented them with this proclamation. Representatives from the organization then briefly spoke, sharing more details about the organization and its various philanthropic contributions.

2. Teen Dating Violence Awareness Month Proclamation

Representatives from Women in Need, the Child Advocacy Center and the Rockwall Youth Advisory Council came forth. Mayor Johannesen then read and presented this proclamation to raise awareness and encourage the eradication of teen dating violence. Representatives from each of the named organizations briefly commented.

VII. Open Forum

Mayor Johannesen explained how Open Forum is conducted. He then invited individuals who desired to speak an opportunity to come forth and do so, one at a time.

Greg Oehler
207 Tanya Drive
Rockwall, TX 75087

Mr. Oehler came forth and expressed concern about short-term rentals (STRs), specifically pointing out questions and concerns about the documentation that is included in tonight's informational meeting packet and the proposed draft ordinance. He believes that neighbors should have some input and 'say so' regarding any short-term rental applicant who might come forth to register with the City. He believes there already exists a proliferation of these types of rentals within neighborhoods, including his own. He asked for Council to consider a revisit of what is being proposed to require that short-term rental applicants be treated like "bed and breakfasts" and that the city require a Specific Use Permit be applied for, reviewed and either granted or denied by the Council. He also has concerns about the existing 'grandfathering clause.' He has concerns about three that are currently in existence near him in his own neighborhood, and he does not like the idea of being stuck with those three forever. He wants them to have to go through an SUP process as well (and essentially not be "grandfathered in").

Joy Bounds Murphy
209 Tanya Drive
Rockwall, TX 75087

Mrs. Murphy came forth and expressed concerns regarding short-term rentals (STRs). She shared that Mr. Oehler and his wife have been neighbors with her and her husband for more than forty years. She holds the same viewpoints as those expressed by Mr. Oehler. She then spoke regarding the 'sanctity of the home' and what 'home' means to the human soul (i.e. to provide rest, comfort and a restoration of the soul). She quoted from the Bible. She acknowledged that the City is up against some challenges, including legal-related issues. She indicated that a prior city council 'pushed this issue' (of short-term rentals) down the road. She implored Council to look at the neighborhoods, the people, and the relationships of people within the neighborhoods. She went on to quote a May 2023 article out of the Dallas Morning News (related to diminishing the safety and quality of a neighborhood because of how STRs essentially lead to a reduction in the number of 'true neighbors'). She went on to share about how Rockwall's current fire chief grew up right across the street from her grandmother, and she and her family were close to him and his family as they watched him grow up. The same is true of the individual who currently serves as the Rockwall County Sheriff. She pointed out that a short-term rental person is not going to be a 'true neighbor.'

Judy Dickson
205 Meadowdale Drive
Rockwall, TX 75087

Mrs. Dickson shared that she has read the material in the informational city council meeting packet, and she is concerned that the city does not plan to regulate the location of where short-term rentals ("STRs") can operate. She observes that the city is only going to require them to register. She has concerns that every third or fourth house on any given street in a residential area could have an STR in existence. She also has concerns that there is no limit on the number of STRs that a person or company could buy up, own, and operate. She has concerns that these sorts of businesses and individuals will buy up residential properties and inhibit the ability for others to purchase and reside in these types of homes. She believes STRs are essentially running a business within a residential neighborhood. She has concerns about STRs (not) paying hotel occupancy taxes. She does not believe the proposed ordinance tonight truly addresses a lot of concerns that residents have expressed related to STRs.

Terri Nevitt
201 Becky Lane
Rockwall, TX 75087

Mrs. Nevitt came forth and thanked Councilmember Moeller for his beautiful, opening prayer. She too has concerns about STRs. Mrs. Nevitt is hesitant to charge these property owners a 'hotel occupancy tax.' She does not believe the requirement that STRs not be located within 250' of each other is not sufficient. She also has concerns about the timeframe associated with STRs who do not follow registration-related rules that the city might establish. She believes that the owner should also have to serve as 'the agent' for the STR properties so that nearby residents can actually reach the owner. She also believes that STRs should pay a higher water rate. On a separate matter...on the ART Commission agenda item tonight regarding the "Picture This" effort – she would rather have something more permanent in place. She thinks the temporary picture frames that allow for photo opportunities are cute, but she prefers that they be something more permanent that blends in aesthetically with the surroundings.

There being no one else wishing to come forth and speak at this time, Mayor Johannesen then closed Open Forum.

VIII. Take Any Action as a Result of Executive Session

Mayor Pro Tem Campbell moved to appoint Jim White as the RISD (non-voting) liaison to the Rockwall Economic Development Corporation (REDC) board. Councilmember Thomas 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 January 16, 2024 city council meeting, and take any action necessary.
2. **22023-054** - Consider a request by Pare Underwood on behalf of Annette Lall of HIS Covenant Children, Inc. for the approval of an **ordinance** for a Specific Use Permit (SUP) for an Event Hall/Banquet Facility on a 0.689-acre tract of land identified as Lots A & B, Block 2, Griffith Addition, City of Rockwall, Rockwall County, Texas, zoned Downtown (DT) District, situated within the Old Town Rockwall (OTR) Historic District, addressed as 303 E. Rusk Street, and take any action necessary **(2nd Reading)**.

3. **Z2023-055** - Consider a request by Dean Cathey of Dean Cathey Custom Homes on behalf of Chris Malek for the approval of an **ordinance** for a Specific Use Permit (SUP) for *Residential Infill in an Established Subdivision* for the purpose of constructing a single-family home on a 0.2070-acre tract of land identified as Lots N38, N39 & N40 of Lakeside Village, Phase 4 Addition, City of Rockwall, Rockwall County, Texas, zoned Planned Development District 2 (PD-2), addressed as 3601 Highpoint Drive, and take any action necessary **(2nd Reading)**.
4. **Z2023-056** - Consider a request by Paul Arce on behalf of Kisanet Ghebretsadik 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 0.1377-acre parcel of land identified as Lot 22, Block B, Harbor Landing, Phase 2 Addition, City of Rockwall, Rockwall County, Texas, zoned Planned Development District 8 (PD-8), addressed as 295 Harborview Drive, and take any action necessary **(2nd Reading)**.
5. **P2024-004** - Consider a request by Keaton Mai of the Dimension Group on behalf of Michael Hampton of Creekside Commons Crossing, LP for the approval of a Replat for Lots 14-18, Block A, Creekside Commons Addition being a 16.719-acre tract of land identified as Lots 2-6, Block A, Creekside Commons Addition, City of Rockwall, Rockwall County, Texas, zoned Commercial (C) District, situated within the SH-205 Overlay (SH-205 OV) District, generally located at east of the intersection of S. Goliad Street [SH-205] and S. FM-549, and take any action necessary.
6. Consider authorizing the City Manager to execute a maintenance and services agreement with Phasetec Electric, Inc. to provide maintenance and service for Supervisory Control and Data Acquisition (SCADA) for Water, Wastewater, and Street Divisions of Public Works, and take any action necessary
7. Consider authorizing the City Manager to execute agreements with Freese & Nichols, Inc. and GRAM Traffic North Texas, Inc. for the provision of Professional Engineering Services relating to the Roadway Impact Fee Update in the amount of \$63,687.75 to be funded by the FY2024 Budget, and take any action necessary.
8. Consider approval of a resolution calling a General Election to be held May 4, 2024 for the purpose of electing three city council members for Place 2, Place 4 and Place 6, each for two-year terms, and take any action necessary.
9. Consider authorizing the Mayor to execute an all-hazards, countywide interlocal jurisdictional mutual agreement between the City, Rockwall County and all municipalities within Rockwall County, and take any action necessary.
10. Consider approval of a recommendation from the Hotel Occupancy Tax (HOT) Subcommittee awarding funding for the Rotary District Conference in the amount of \$10,000 and Rockwall Heath Gymnastics Tournament in the amount of \$15,000 and authorize the City Manager to execute the associated contracts, and take any action necessary.

Councilmember Lewis moved to approve the entire Consent Agenda (#s 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10). Councilmember Thomas seconded the motion. The ordinance captions were read as follows:

**CITY OF ROCKWALL
ORDINANCE NO. 24-03
SPECIFIC USE PERMIT NO. S-323**

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, TEXAS, AS PREVIOUSLY AMENDED, SO AS TO GRANT A SPECIFIC USE PERMIT (SUP) TO ALLOW AN *EVENT HALL/BANQUET FACILITY* ON A 0.689-ACRE TRACT OF LAND IDENTIFIED AS LOTS A & B, BLOCK 2, GRIFFITH ADDITION, CITY OF ROCKWALL, ROCKWALL COUNTY, TEXAS; PROVIDING FOR SPECIAL CONDITIONS; PROVIDING FOR A PENALTY OR 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. 24-04
SPECIFIC USE PERMIT NO. S-324

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, AMENDING PLANNED DEVELOPMENT DISTRICT 2 (PD-2) 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 0.2070-ACRE TRACT OF LAND, IDENTIFIED AS LOTS N38, N39 & N40 OF LAKESIDE VILLAGE, PHASE 4 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. 24-05
SPECIFIC USE PERMIT NO. S-325

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, AMENDING PLANNED DEVELOPMENT DISTRICT 8 (PD-8) [*ORDINANCE NO. 23-40*] 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 IN AN ESTABLISHED SUBDIVISION* TO ALLOW THE CONSTRUCTION OF A SINGLE-FAMILY HOME ON A 0.1377-ACRE PARCEL OF LAND, IDENTIFIED AS LOT 22, BLOCK B, OF THE HARBOR LANDING, PHASE 2 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.

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

X. Action Items

1. Hear update from representative(s) of the City's ART Commission regarding status of current projects and to consider approval of future phases of the *Picture This* 'art in public places' project, and take any action necessary.

Ginger Womble, current Chair of the City's ART Commission came forth and presented an update to Council on projects the group has previously worked on as well as those that are forthcoming. She reminded Council of both the guitar-related and butterfly-related projects the Commission has undertaken. She went on to share that the Commission previously had its first 'frame' approved for the interactive "Picture This" art project, and that frame is currently located at The Harbor. The Commission is now seeking approval for three additional frames. The total project, overall and if approved, will result in having two interactive picture frames located on the North side of the city and two on the South side of the city. She went on to explain that about 100-200 metal locks are placed on the fencing alongside The Harbor (lakeside) area, and those get routinely cut off and removed by city staff each year. The frame that has already been installed at The Harbor was designed with heavy cables that essentially allow for people to put locks on the frame in lieu of putting locks on (and damaging) the fencing. This project was installed with help from the Parks Department, and the frame at The Harbor is semi-permanent (installed in the ground and made of steel). The next frame will be installed at Fox Chase to highlight the beauty of this park, including a great view of the landscape behind the photo frame. Emerald Bay Park will be the third proposed location for one of these frames, and the last (4th) frame will be installed at Harry Myers Park. Ms. Womble explained that the frames are \$7,500 each, and she shared additional details about the durability of the materials utilized and the installer. She explained that the ART Commission is asking for \$500 (on top of the cost of the additional 3 frames) to allow for the purchase of locks to be handed out only at the "dedication" event.

Following additional, brief comments Councilmember Lewis moved to approve the requested \$22,500 to fund three more picture frames and \$500 for locks for the frame dedication event, for a total of \$23,000. Councilmember Thomas seconded the motion. Councilmember Thomas commented how beneficial our city parks are to our citizens and he believes this is a fun, worthwhile project. Councilmember McCallum reminded the public that the city does have an "art fund," and money to fund these sorts of projects comes from that particular fund – not from the city's General Fund. Mayor Pro Tem Campbell sought and received brief clarification on the photo frames being 'semi-permanent.' Ms. Womble shared that they are made of steel and are dug / installed into the ground quite a ways. So, they are not permanent (won't last 1,000 years); however, it would take 'construction equipment' to have them removed someday.

The motion to approve the funding 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 Occupancy Tax ("HOT") funding received and programs offered through the Convention & Visitors Bureau on behalf of the City of Rockwall.

Jodi Willard, Director of Tourism with the Chamber, came forth and updated Council on recent marketing efforts and associated events that the Chamber has been working on to help promote the City of Rockwall to visitors and encourage tourism within our city. Councilmember Thomas shared that the "Skate the Lake" event (back in Nov. through January) was phenomenal. Councilmember Lewis also thought this event was great and went very well. Councilmember Jorif indicated he attended that event and also skated. He believes it was a fun, impactful event for both young and old. He believes there are some ways the event can be improved upon, but – overall – he expressed the sentiments that The Chamber did a good job on that event. Mayor Pro Tem Campbell asked about some upcoming sporting events that are coming to Rockwall. She wonders if the Chamber is doing anything to track the hotel stays for these events. Ms.

Willard shared that they will be making efforts to better track those hotel stays. Council took no action as a result of Ms. Willard's update.

3. Discuss and consider directing staff to prepare an ordinance amending the Municipal Code of Ordinance and the Unified Development Code (UDC) to adopt regulations for *Short-Term Rentals*, and take any action necessary.

Mr. Ryan Miller, the City's Planning Director, provided background information concerning this agenda item. He explained that, back in November, Council previously asked the city attorney and staff to evaluate the issue of short-term rentals and look into the city regulating things such as - life safety, proximity requirements, city registrations / permitting, commercial insurance, and inspection requirements. He shared that, as staff and the city attorney have studied this issue, staff has studied literature obtained from the state as well as past court decisions. He shared that the state has defined STRs and has indicated, through the Tax Code, that they must pay hotel occupancy taxes. Court decisions have offered some additional clarity in that they've pointed cities towards the need to view STRs through a 'residential lens.' Staff has worked diligently to bring forth an ordinance for discussion this evening. The hope is that the content of the ordinance is representative of requirements that will not be easily challenged legally, while also addressing some of the Council's and residents' concerns.

Mr. Miller explained that the proposed ordinance, first, defines "short-term rentals," including defining various types of STRs (i.e. "owner occupied, single-family home, townhome or duplex, a non-owner occupied Single family home, townhome or duplex; a STR that is an apartment or condominium). Mr. Miller briefed the Council on each of these proposed definitions within the draft ordinance.

Mr. Miller shared that the city will need to modify, not only the city's Unified Development Code (UDC), but also the city's municipal Code of Ordinances. He went on to share proposed modifications to the city's "Permissible Use Chart" within the UDC and also a proposed "STR proximity map" (i.e. the draft language essentially states that STRs cannot be located closer than 250' from each other). However, he pointed out that 250' is just a 'place holder' for now, explaining that staff would like Council's feedback in this regard. He also explained that the city would be requiring that these STRs both register with the city and be permitted. He briefly explained that applying proximity requirements to apartments and townhomes/condos can be challenging. He shared that the 'responsible party' for STRs has to be someone located within Rockwall County and that they essentially have to be readily (and quickly) available to address any immediate concerns associated with a particular STR. In conjunction with the proposed ordinance, staff has also created a permit application and registration form that shows the information that would be collected as part of the program. Based on the proposed ordinance, a \$500.00 application fee would be required to register a STR, and the registration and permit, once approved and issued, would be valid for a period of three (3) years. The language also creates General Standards for Short-Term Rentals that include requirements associated with things such as advertising, parking, temporary structures, trash, signage, life safety requirements, conduct on premises, tenant notification requirements, and payment of hotel occupancy tax. The applicant of a Short-Term Rental Permit would be required to self-certify current and continued compliance with these requirements. The proposed ordinance establishes enforcement and penalty procedures for Short-Term Rentals. Specifically, the ordinance establishes specific violations and a penalty that can range from \$250.00 to \$500.00 per violation. In addition, if a STR accrues three (3) violations in any consecutive six (6) month period, the Short-Term Rental Permit and Registration for the STR can be revoked, and the property owner would be prohibited from reapplying for a new Short-Term Rental Permit and Registration for a period of six (6) months. Staff noted that many of the cities surveyed

have created similar requirements; however, many of these cities use a 12-month penalty for reapplication. In this case, it is believed that a six (6) month penalty would likely be sufficient. The proposed ordinance also requires a "Responsible Party" as part of the Short-Term Rental Permit and Registration. A Responsible Party is a "...local representative that resides in Rockwall County and who is available at all time the rental is in use." The purpose of this requirement is to discourage absentee ownership, and ensure there is a point of contact that is local and can quickly address and remedy any issues or violations associated with a particular STR during its rental. Mr. Miller explained that this type of requirement was contained in almost every city ordinance staff reviewed. The proposed ordinance creates an appeal process for administrative decisions made by staff. Since this would be an appeal to an administrative decision, the ordinance requires that all appeals be heard by the city's Board of Adjustments (BOA) in accordance with existing procedures and state law. The proposed ordinance also establishes Non-Conforming Rights for properties that are able to prove they have been operating as a Short-Term Rental prior to the adoption of the proposed ordinance. This includes exemptions to certain zoning requirements (i.e. the proximity requirements and the permissible use zoning districts would not be able to be applied to STRs already currently in existence at the time of ordinance adoption). With this being said, under the proposed program these existing STR's would still be required to register and apply for a permit through the proposed program by a specified date (in other words, there would essentially be a 'grace period' after the ordinance is adopted). Mr. Miller's informational memo provided in the meeting packet touched on the following points:

SHORT-TERM RENTAL (STR) PERMIT AND REGISTRATION.

- A form that includes [1] ownership information, [2] *Responsible Party* information, [3] site plan, [4] pictures of the property, [5] self-certification of compliance, and [6] acknowledgement of the receipt of the STR code.
- The permit and registration fee is \$500.00.
- The permit shall be valid for a period of 3 years and be required to be renewed 30-days prior to expiration.
- *STR Permit and Registrations* are NOT transferable to another property owner or address.

GENERAL STANDARDS FOR STR'S

- Advertising. All advertisements for the STR require the STR Permit Number.
- Parking. Parking shall be on an approved surface.
- Evacuation Plan. For Condominiums and Apartments an evacuation plan needs to be posted on the front door.
- Temporary Structures. No temporary structures are permitted.
- Trash/Rubbish/Solid Waste. All trash shall be completely contained in an approved container.
- Signage. No external signage.

Life Safety.

Fire Extinguisher. A standard 5 LBS fire extinguisher shall be within 75' of all portions of the STR.

Smoke/Carbon Monoxide Detectors. Required to be installed in conformance with City Codes.

Ingress/Egress. All STR's shall have at least 1 operable emergency ingress/egress.

- Conduct on Premise.

Liability. *Responsible Party* shall inform all occupants about the requirements of this code and the liability for violating City ordinances.

Noise. Excessive noise in violation of City ordinances shall be prohibited.

Sleeping. No sleeping outdoors or outdoor sleeping spaces shall be provided.

- Tenant Notification. The property owner shall post the following: [1] *Responsible Party* contact information, [2] pertinent information (e.g. *parking requirements, location of trash, etc.*), and [3] public safety contact information.
- Hotel Occupancy. The property owner shall be responsible for paying all Hotel Occupancy Taxes.

INSPECTIONS

The City reserves the right to inspect the property upon: [1] the issuance of new *STR Permit*, [2] reapplication for an *STR Permit*, and [3] when a violation is reported or suspected.

VIOLATIONS AND REVOCATION

- Violations. A failure to comply with the General Standards, the Property Maintenance Code, or any other applicable Codes of the City of Rockwall shall result in a fine of \$250.00 - \$2,000.00 per offense.
- Revocation.

Revocation Due to Violation. If 3 violations occur in any consecutive 6 month period or where a property owner fails to correct a violation within a specified time period a *STR Permit* may be revoked and the property owner shall not be able to reapply for another *STR Permit* for a period of 6 months.

Permanent Revocation. If an *STR Permit* is revoked 2 times due to violation the Building Official or Planning Director may permanently revoke the ability for the property owner to apply for an *STR Permit*.

- Appeals. If the City denies the issuance or renewal of a *STR Permit* or revokes or suspends a *STR Permit* the property owner may appeal the decision to the Board of Adjustments (BOA).

NON-CONFORMING RIGHTS

STR's shall be considered to be legally nonconforming if they register for a *STR Permit* during the grace period. To prove that an STR was legally in existence prior to the proposed change the property owner shall be required to provide: [1] a property deed or proof of ownership, and [2] proof that the property was used as a STR (i.e. *listing, proof of rental, etc.*) OR proof of payment of hotel occupancy tax to the City of Rockwall.

AMENDMENT PROCESS

Since the proposed amendment will require both the Unified Development Code (UDC) and Municipal Code of Ordinances to be amended, if the City Council directs staff to move forward, the following will be the schedule for the text amendments:

- Planning and Zoning Commission Work Session: February 27, 2024
- Planning and Zoning Commission Public Hearing: March 12, 2024
- City Council Public Hearing/1st Reading: March 18, 2024
- City Council 2nd Reading: April 1, 2024

GRACE PERIOD

Once the 2nd Reading of the ordinance takes place the City would begin the grace period for taking applications for existing STR's. Once this grace period expires, then the City would begin taking applications for new STR's.

Mr. Miller shared that public hearings would have to occur at both the city's Planning & Zoning Commission meetings and at a City Council meeting, plus two readings of any ordinance before an ordinance could be approved.

City Attorney Frank Garza briefly spoke, stating that the courts have been very consistent in conveying that that STRs are residential in nature, and – although some have argued to the courts that they should be treated as 'bed and breakfasts' – the Courts have consistently insisted that they are considered 'residential.' He spoke about the definition in the Tax Code for 'short-term rentals,' explaining that the definition ties to the requirement that STRs pay hotel occupancy taxes. He shared that Texas and Texas courts are very sensitive to property rights, and certain 'vested rights' exist on properties. Mr. Garza shared that any distance requirements that the Council may wish to adopt cannot apply to STRs that are already in existence within the city at this time. He also pointed out that a state representative from Richmond, TX has vowed that he will again be proposing a bill to the TX State Legislature that will essentially prohibit cities from regulating STRs at all. He cautioned that if that sort of bill does end up passing in a future legislative session, cities in Texas will no longer have an ability to regulate STRS.

Councilmember Moeller asked if the city can require STR owners to carry commercial (or additional) insurance. Mr. Garza shared that, yes, he has found that some cities do require additional insurance on these sorts of properties. Mr. Moeller shared that about half of the existing STRs in our city have not paid Hotel Occupancy Taxes (HOT) in years. He wonders if the city can withhold permitting any existing STRs who have not paid HOT taxes to the state and city in a number of years or, in some cases, ever. Mr. Garza shared that there is an avenue that the city can take to try and collect on HOT taxes that have not previously been paid by STRs. Mr. Garza stated that he will need to research to determine if a city can withhold 'vested rights' in the event that an STR has not previously paid HOT taxes due (and/or back-owed) to the City. Councilmember Moeller encouraged the city attorney to look into this possibility because this topic could possibly eliminate half of the existing STRs in the city.

Councilmember Thomas thanked staff and the attorney for the work put into these efforts. He is in favor of increasing violation penalties from \$500 up to \$1,000 and pushing the 6 month revocation period to 12 months instead. He then asked several clarifying questions. He wonders if the city can apply some sort of 'violation' if the designated 'responsible party' fails to respond to the city reaching out asking that issues such as trash, high grass or other violations be addressed. He also wonders if an STR owner has more than one property in existence in the city, and one or more of those properties has un-addressed issues, can the city look at the owner and his/her properties (and associated compliance) as a whole. Mr. Garza indicated he will need to research this particular aspect.

Councilmember Jorif asked a series of clarifying questions regarding contact information for STRs, the

proposed three-year \$500 permit fee. He wonders why the city would not make it a \$500 *per year* permit-related fee. He also wonders how potential implementation will transpire if/when the Council puts an ordinance in place and starts requiring registrations. Mr. Miller shared that a 60-90 day grace period will likely be needed so that the city has time to advertise new regulations and heavily advertise that these new requirements have been implemented and they need to come to the city and apply for registration and permitting.

Councilmember McCallum agreed that a three-year registration is too long. He believes that moving it to a two-year registration is better. He wants the proximity requirement be changed from 250' to 500' instead. "Self-certification" means that the city would be relying on the applicants to attest that they meet all of the city's requirements. Mr. Miller shared that, yes, because if the city then discovers the applicant has not been honest, it can be considered fraudulent information and the city can take appropriate revocation action. Councilman McCallum thinks that the city should require additional insurance as well. Also, if someone gets a permit and then does not pay their HOT taxes, can non-payment of taxes then lead to revoking their permit. Mrs. Smith pointed out that payment of taxes is on 'the honor system' on the part of STR owners; so there is really no true way to know if they've not been paying. McCallum wants to know how the city will handle an STR owner not coming forth to proactively register and apply for a permit. Mr. Garza shared that, in a case like that, the city can move forward and revoke the property owner's ability to continue utilizing the property as an STR. Mr. Garza shared that this caveat can be added to the proposed ordinance.

Councilmember Lewis requested that the penalty of violation of the ordinance be increased from \$250 up to \$500 for the 'minimum.' Lewis also shared that he would like to see a two-year registration and permit be required (with \$500 being owed every two-year period (instead of every three years)).

Mayor Pro Tem Campbell would like to look into what can be done for the city to try and collect on past and current HOT taxes owed to the city. She also agrees with a 500' proximity requirement (in lieu of the proposed 250'). She also supports a two-year \$500 registration and permit requirement (rather than once every three years).

Mayor Johannesen asked for and received clarification regarding requiring STRs to carry additional insurance. Johannesen also sought and received clarification regarding an STR's "responsible party" to respond within one hour of the city reaching out to them to ask that an issue or concern be addressed. Mr. Miller shared that a one-hour requirement would hopefully mean that things like noise-related concerns would be addressed very quickly.

To summarize, Mr. Miller expressed his understanding that staff and the city attorney will work to modify things within the proposed ordinance, including the following:

- 500' buffer as far as proximity
- A 12 month revocation period for 3 violations
- Additional commercial insurance
- Clear up of inspections-related language
- HOT non-payment possibly resulting in revocation kicking in
- A two-year \$500 registration / permit requirement
- A \$500 minimum fine for violations

Indication was given that the City Attorney will right away begin researching answers to some of the

questions posed this evening. Mrs. Smith, City Manager, pointed out that there will be one additional city council meeting – Tues., February 20 – before this issue would then go before the city’s Planning & Zoning Commission at a work session on February 27.

Councilmember McCallum shared that he had a recent, ‘frank’ conversation with Senator Hall. He asked specifically how Senator Hall feels about STRs. McCallum shared that Senator Hall very clearly indicated that he will stand with property rights. Councilmember McCallum went on to encourage local citizens to ask tough questions of their state, elected officials regarding issues that are ‘close to home.’ Councilmember McCallum pointed out that the State legislature loves to limit what municipalities can do to regulate things within their own cities. He strongly encouraged local citizens to ask hard answers of state elected officials and expect and insist on receiving very frank answers in return.

Following the lengthy discussion, Council took no formal action regarding this agenda item at this time.

4. Hear presentation from representatives of Total Wine & More, Inc. related to possible Local Option Election for November 2024.

Edward Cooper
“Government Relations” at Total Wine & More
6600 Rockledge Drive
Bethesda, MD 20817

Mr. Cooper came forth and shared that his business has undertaken two attempts at a local petition related to trying to get a ballot proposition before voters. He explained that the company is currently evaluating its potential ‘next steps’ in this regard. He shared that Total Wine is an American, family-based owned and operated company. He went on to share that it currently has 264 stores operating in 28 states. Each store employees 50-75 highly trained employees who are local hires, keeping revenue in the locality in which these stores are located. Seventy-five percent of these team members are full-time and have full benefits (health and dental insurance with benefits such as paid time off for vacations and sick leave and a 401k retirement plan). He went on to share that they occupy locations that are between 25,000 – 30,000 square feet in size, and they offer a best-in-class, wide selection of wines, spirits (liquor) and beers. He believes they provide unparalleled customer experiences to their patrons. He shared that each store features hundreds of local and state-specific products, which are all identified by shelf tags with, for example - here in Texas - a Texas state flag. He stressed that Total Wine only sells to those who are twenty-one years of age and older, and the company is a leader in the area of prevention of alcohol beverage sales to minors. He explained that no one under the age of 21 is permitted to even be in the store without being accompanied by someone who is 21 years of age or older. He shared that this requirement is strictly enforced. He went on to share the various ways in which Total Wine and More is philanthropic and how it focuses on ‘giving back’ to the community it serves / the community in which each store is located. He pointed out that residents currently living in the City of Rockwall are currently shopping for beer, wine and spirits in adjacent municipalities such as Dallas, Rowlett and Fate. He pointed out that a good number of patrons shopping at other Total Wine Stores, such as in Plano or Dallas, have asked for Total Wine to consider establishing a store here in Rockwall. So, his company desires to be responsive to its customers. Mr. Cooper pointed out that tax revenue is currently escaping the City of Rockwall, so a Total Wine location becoming established in the City of Rockwall will result in increased tax revenue for the city. Mr. Cooper shared that Total Wine is a ‘destination’ type store, rather than a day-to-day type store. Their stores draw many folks from outside of the city in which a Total Wine & More store is actually located, and – while they are at the Total Wine Store shopping – patrons also end up going to other, nearby businesses to shop and spend money as well (also resulting in additional tax revenue to the city).

Mayor Johannesen shared that he thinks Mr. Cooper's store is fine, but having one of these types of stores is way down on the city's priority list. However, he is sympathetic to Mr. Cooper's attempts to try and get on the ballot.

Mayor Pro Tem Campbell expressed concerns about – if voters 'vote this in,' doing so would allow for not only Total Wine & More stores, but it would also allow for other (liquor) stores to be able to operate within the city too.

Councilmember Lewis shared that he believes Total Wine & More is a great company, and it is very philanthropic. However, there are other liquor stores that would invariably come as well. He believes some of them are not so desirable, and that is a huge concern of his.

Councilmember Jorif asked for clarification on how many times his company has attempted to get on the ballot. Mr. Cooper shared that they have attempted two times, but they failed both times. Councilmember Jorif expressed that he believes two failures is representative of the disinterest our citizens have regarding his petition attempts. Mr. Cooper respectfully shared that his company is considering attempting one more time. Councilmember Lewis shared that attempting a third time would certainly be within his and his company's rights to do so. Mayor Johannesen stressed that they do have a right to allow a democratic process to play out.

Mr. Cooper thanked the city council for its time this evening. Council took no action as a result of Mr. Cooper's presentation and the brief dialogue that ensued.

5. Discuss and consider directing staff to proceed with an initiative to abandon certain unimproved or underutilized rights-of-way, and take any action necessary.

Planning Director, Ryan Miller, shared that about eighty unimproved and/or underutilized rights-of-ways exist in the city that provide little to no public benefit. He went on to explain that staff is asking Council to consider the city proactively releasing these pieces of land and giving them back to adjacent property owners. This would relieve the city of costs associated with maintaining them and would also put the pieces of land back on the city's tax role. He explained that the TX Municipal Code allows for a city to take this sort of action. He explained that, one-by-one, staff would have to work with the property owners to find out if they're interested in acquiring the land. After written consent has been obtained from the adjacent property owners, staff will engage a surveyor to prepare a subdivision plat, legal description, and any other necessary exhibits for the area to be abandoned. Staff would prepare an ordinance and quitclaim (if necessary) for the abandonment. The Texas Local Government Code requires that cities abandon public rights-of-way by ordinance. A public hearing would be required to be advertised and held by the City Council when considering the adoption of an ordinance for a right-of-way abandonment. Both the subdivision plat and ordinance would be considered simultaneously. After the City Council approves the subdivision plat, adopts the ordinance, all property owners have signed the subdivision plat, and the Mayor or City Manager have signed a quitclaim, the subdivision plat and quitclaim will be filed with Rockwall County.

After Councilmember McCallum moved to direct staff to write an ordinance to abandon these rights-of-ways. Councilmember Moeller seconded the motion. Following brief clarification, the motion 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. Fire Department Monthly Report
3. Parks & Recreation Department Monthly Report
4. Police Department Monthly Report
5. Sales Tax Historical Comparison
6. Water Consumption Historical Statistics

Mrs. Smith reminded everyone that the next, regular city council meeting bumps to Tuesday due to the President's Day holiday. It will be held on Tuesday, February 20.

XII. Adjournment

Mayor Johannesen adjourned the meeting at 8:19 p.m.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS ON THIS 20th DAY OF FEBRUARY, 2024.

ATTEST:


KRISTY TEAGUE, CITY SECRETARY


TRACE JOHANNESSEN, MAYOR

