

A regular meeting of the Mayor and City Council of the City of Waxahachie, Texas was held in the Council Chamber at City Hall, 401 S. Rogers, Waxahachie, Texas, on Monday, February 20, 2023 at 7:00 p.m.

Council Members Present: David Hill, Mayor, Council Member Place 1
Chris Wright, Mayor Pro Tem, Council Member Place 3
Patrick Souter, Council Member Place 2
Billie Wallace, Council Member Place 4
Travis Smith, Council Member Place 5

Others Present: Michael Scott, City Manager
Albert Lawrence, Deputy City Manager
Robert Brown, City Attorney
Amber Villarreal, City Secretary

1. Call to Order

Mayor David Hill called the meeting to order.

2. Invocation

3. Pledge of Allegiance and Texas Pledge of Allegiance

Pastor David Brown, Avenue Church, gave the invocation. Council Member Patrick Souter led the Pledge of Allegiance and the Texas Pledge of Allegiance.

4. Public Comments

Donald Jones, 2629 Sagebrush Dr., Glenn Heights, Texas, spoke in support of renaming Highway 287, between Midlothian and Ennis, as “Bessie Coleman Memorial Highway” as initially requested by Dr. Jamal Rasheed. He requested City Council postpone their vote to allow them to further research the contributions and impact of Bessie Coleman.

Cynthia Herrera, President of the Ellis County Hispanic Organization, thanked City Council for the support of their annual Cinco de Mayo event and noted the organization is proud to host the event downtown. Ms. Herrera introduced the Board: Vice President and Music Director Joe Villarreal, Secretary Yvette Mendoza, Treasurer Yvette Gallegos, Vendor Coordinator Nora Torres, and Music Liaison Richard Rodriguez.

5. Consent Agenda

- a. Minutes of the City Council meeting of February 6, 2023
- b. Event application for Funday Run Day Tot Trot to be held March 2, 2023
- c. Event application for City-Wide Easter Egg Hunt on April 8, 2023
- d. Event application for Rainbow Room Fun Run at Railyard Park to be held April 15, 2023
- e. Event application for Hachie 50 event to be held April 21-22, 2023
- f. Event application for Cinco de Mayo Festival to be held May 6, 2023

- g. Event application for C10s in the Park to be held September 16, 2023 at Getzendaner Park
- h. Event application for C10s in the Park Party on the Square to be held September 16, 2023
- i. Event application for Wheels of Fire Bike Ride to be held June 24, 2023
- j. Adoption of the Downtown Building Improvement Grant Program and authorize funding from the Tax Increment Reinvestment Zone No. 1 fund
- k. Authorize funding from the Tax Increment Reinvestment Zone No. 1 fund for Walk of Fame Stars fabrication and installation
- l. Authorize funding from the Tax Increment Reinvestment Zone No. 1 fund for Downtown Rehabilitation Projects
- m. Authorize supplemental appropriation for the emergency repair of the Brookside Road bridge erosion in the amount of \$63,618

Action:

Council Member Billie Wallace moved to approve all items on the Consent Agenda as presented and authorize the City Manager and/or Mayor to execute all documents as necessary. Council Member Travis Smith seconded, All Ayes.

6. Introduce Honorary Council Member

Council Member Travis Smith presented Jacob Ervin with a Certificate of Appreciation for serving as the February 2023 Honorary Council Member. Mr. Ervin is the son of Greg and Paula and brother to Caleb and Joshua. Jacob is a sophomore at Waxahachie High who burst onto the scene at defensive tackle for the Indian football team. He recorded 40 tackles, 8 tackles-for-loss, 1 interception and blocked 3 kicks. He was named to the District 11-6A second team for his efforts, which is quite the feat considering there were over a dozen defensive seniors who signed Division-I letters of intent on National Signing Day, not including the dozen or so Division-I offensive linemen he competed against on every down. Off the field, Jacob is described as a servant leader throughout the community who opens car doors at local elementary schools and is a bell ringer for the Salvation Army. Jacob carries a 3.6 GPA and is a member of The Potter's House. Waxahachie's head football coach Shane Tolleson was quick to label Jacob as a leader on and off the field and applauded him for always being one of the first to step up to serve teammates, coaches, teachers, fellow students and the community.

7. Present Proclamation recognizing Paul Box's participation in the 2023 World Marathon Challenge

Mayor Hill presented a proclamation commending Paul Box's participation in the 2023 World Marathon Challenge and recognized Paul's family in attendance: parents, Ken and Dietra Box, and his daughters, Kenlee and Annie.

8. Consider proposed Resolution supporting the memorial designation of the FM 878 overpass at Highway 287 as "Bessie Coleman Memorial Bridge," through the Texas Department of Transportation Highway Naming Program; and providing an effective date

RESOLUTION NO. 1336

A RESOLUTION OF THE CITY OF WAXAHACHIE SUPPORTING THE MEMORIAL DESIGNATION OF THE FM 878 OVERPASS AT HIGHWAY 287 AS “BESSIE COLEMAN MEMORIAL BRIDGE,” THROUGH THE TEXAS DEPARTMENT OF TRANSPORTATION HIGHWAY NAMING PROGRAM; AND PROVIDING AN EFFECTIVE DATE.

Action:

Council Member Billie Wallace moved to approve the Resolution supporting the memorial designation of the FM 878 overpass at Highway 287 as “Bessie Coleman Memorial Bridge” and authorize the City Manager and/or Mayor to execute all necessary documents. Council Member Travis Smith seconded, All Ayes.

Council Member Smith stated Bessie Coleman served as a bridge for women and acknowledged the meaningful impact of this location near her childhood home.

Dr. Jamal Rasheed, President of the Ellis County African American Hall of Fame Museum, thanked City Council for their support and Council Member Smith for his words.

9. Receive Fiscal Year 2023 1st Quarter Financial Report

Chad Tustison, Senior Finance Director, reviewed the Fiscal Year 2023 1st quarter financial report noting revenues and expenses are performing as expected and are in line with the General Fund budget. Sales tax collections represent an increase of 7.5% over the prior year. Mr. Tustison reported the City is seeing additional interest income due to the higher interest rates offered by our local government investment pool. He explained building inspections and permits are trending slightly lower than budget. Hotel/Motel occupancy was about 70% for the last 3-4 years, excluding during COVID, and has been at 80% occupancy the last few quarters.

Mr. Tustison announced the audit will be presented to City Council in March and the FY 24 budget process is starting next week.

10. Public Hearing on a request by Henry Quigg, Richmond Group, for a Replat of a portion of Lot 3A, Block 30 of the Bullard’s Revision, to create Lot 3A-R, being 0.324 acres, located at 100 S US Highway 77 (Property ID: 172431) Owner: PEARMAN OIL & LP GAS, INC. (SUB-146-2022)

Jennifer Pruitt, Senior Director of Planning, presented the case noting the applicant is requesting to replat the subject property into one (1) lot for commercial use in order to prepare for future development. The proposed lot meets the minimum required size and dimension standards of the Commercial Zoning District and the applicant has filed a mutual access easement on the southeastern corner of the property to allow for access to the site via a shared driveway on S US Highway 77. Ms. Pruitt noted the applicant is requesting a Petition of Relief Waiver for the right-of-way (ROW) dedication requirement along S Rogers Street and S US Highway 77. Staff received one letter of support and the Planning and Zoning Commission recommended approval by a 5-0 vote. Due to the recent acquisition of Right-of-Way (ROW) from the subject property and the TxDOT control of Highway 77 and S Rogers Street, staff is supportive of the variance request for ROW dedication.

Mayor Hill opened the Public Hearing.

There being no others to speak for or against SUB-146-2022, Mayor Hill closed the Public Hearing.

11. Consider approval of SUB-146-2022

Action:

Council Member Billie Wallace moved to approve SUB-146-2022, a replat of the Bullard's Revision, and the associated Petition for Relief Waiver, subject to the conditions in the staff report and authorizing the City Manager and/or Mayor to execute all necessary documents. Council Member Travis Smith seconded, All Ayes.

12. Public Hearing on a request by Chris Snow for a Specific Use Permit (SUP) for an accessory structure +700 sf use within a Single Family Residential-2 zoning district located at 107 University Avenue (Property ID 176369) - Owner: CHRISTOPHER & KAREN SNOW (ZDC-160-2022)

Ms. Pruitt presented the case noting the applicant is requesting a Specific Use Permit for an 864 sq. ft. accessory structure in the rear portion of the single-family residential lot. She explained the applicant was issued two (2) building permits for an enclosed building (288 square feet) and an attached carport (576 square feet) totaling 864 square feet. The applicant has confirmed the structure will not be used as a dwelling of any kind and will not be metered, sold, or leased separately from the existing home. Staff received six (6) letters of support and the Planning and Zoning Commission recommended approval by a 5-0 vote. Staff recommended approval per the following comments:

1. The accessory structure shall not be used as a dwelling.
2. The accessory structure shall not be used for commercial purposes.
3. The accessory structure shall not be leased or sold separately from the primary residence and shall not be separately metered.

Mayor Hill opened the Public Hearing.

There being no others to speak for or against ZDC-160-2022, Mayor Hill closed the Public Hearing.

13. Consider proposed Ordinance approving ZDC-160-2022

ORDINANCE NO. 3360

AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO ALLOW AN ACCESSORY STRUCTURE EQUAL TO OR GREATER THAN 700 SQUARE FEET USE WITHIN A SINGLE-FAMILY RESIDENTIAL-2 (SF-2) DISTRICT LOCATED AT 107 UNIVERSITY DRIVE IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING 0.32 ACRES KNOWN AS PROPERTY ID 176369, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE

Action:

Council Member Billie Wallace moved to approve ZDC-160-2022, a Specific Use Permit (SUP) for an accessory structure greater than 700 sf, subject to the conditions in the staff report and authorizing the City Manager and or Mayor to execute all necessary documents. Council Member Patrick Souter seconded, All Ayes.

14. Public Hearing on a request by Steve Homeyer, Homeyer Engineering Inc., for a Specific Use Permit (SUP) for a Drive-Through Car Wash use within a General Retail (GR) zoning district located directly North 500 N US Highway 77 (Property ID: 289738) – Owner: RS WAXAHACHIE LLC (ZDC-173-2022)

Ms. Pruitt presented the case noting the applicant is proposing to construct a 4,456 sq. ft. express tunnel car wash. The development is proposed to include a 273 square foot office and 13 self-service vacuum bays. An 8' masonry thinwall is proposed along the eastern boundary of the property, as required by the existing zoning for the property (PD-24-GR). The applicant is proposing to access the site via mutual access easements connecting to existing private drives to the north and south; however, these access easements do not currently exist.

Ms. Pruitt explained the applicant has proposed one elevation/façade plan for consideration with this SUP. The primary façade material proposed for the car wash is a painted concrete masonry unit. The façade plan also utilizes tile, glass, and metal panels to a lesser degree.

Ms. Pruitt reported the applicant has requested a variance to deviate from the minimum rear setback requirement of the General Retail (GR) Zoning District. The GR Zoning District requires a minimum rear setback of 25' when adjacent to residential uses. The applicant is proposing to proceed with a minimum rear setback of 15'. The applicant is also seeking a variance to deviate from the minimum side setback requirement of 20' along the northern property line.

Staff recommended denial of ZDC-173-2022 due to the following staff concerns:

- Access: The applicant provided a letter of support from Braum's for a mutual access agreement.
- Proximity to residential uses
- Saturation: It is important to note that the proposed development is located less than half a mile from the existing Waxahachie Express Wash. Staff is concerned that the construction of an additional car wash at this location would lead to an oversaturation of car wash uses in the area.
- Compatibility with the Site: Staff has concern that the scale and intensity of the proposed use is not compatible with the unique conditions of the subject property or the surrounding area. The Clear Water Express Carwash design is proposed to feature interior lighting displays. Staff has concern that this lighting will result in a nuisance for the residences immediately adjacent to the site. The applicant has provided a photometric plan to address this concern, but the plan does not account for the internal lighting of the carwash. The subject property's small size paired with a lack of direct access to Highway 77 also raises a specific concern with traffic and vehicular flow on site, given that the applicant expects an average of 450 customers per day. Staff is concerned that the level of noise and light associated with the development will constitute a nuisance for the existing residences immediately adjacent to the site. With these concerns in mind, staff does not believe the proposed development is the highest and best use for the subject property.

Ms. Pruitt stated the Planning and Zoning Commission recommended denial by a 5-0 vote and a supermajority vote from Council is required for approval.

Mayor Hill opened the Public Hearing.

Heather Rimmer, 4336 Marsh Ridge, Carrollton, Texas, explained the interior lighting in the bay can be adjusted, if requested, and they conduct studies to make sure the lighting does not go off the property lines. She noted there is an approved access easement with Braums that doesn't match the site plan, but the developer plans to revise the easement once the zoning case is approved.

Those who spoke in opposition:

Faye Ellison, 1611 Alexander Drive, Waxahachie, Texas
Don Ellison, 1611 Alexander Drive, Waxahachie, Texas

Council Member Smith expressed his strong disapproval of the applicant's proposed use on the site due to traffic safety concerns and the lack of a direct exit to Highway 77. He noted the proposed carwash is not the highest and best use for the property.

There being no others to speak for or against ZDC-173-2022, Mayor Hill closed the Public Hearing.

15. Consider proposed Ordinance approving ZDC-173-2022

Action:

Council Member Billie Wallace moved to deny ZDC-173-2022, the Specific Use Permit request for a Drive-Through Carwash use at Property ID: 289738. Council Member Travis Smith seconded, All Ayes.

16. Consider Development Agreement for ZDC-173-2022

No action taken.

17. Public Hearing on a request by Iris Showalter, Owner of Studio Iris, for a Zoning Change from a General Retail (GR) zoning district to Planned Development – General Retail (PD-GR) zoning district, located at 120 North Highway 77 (Property ID 173425) - Owner: 120 NORTH, LLC (ZDC-177-2022)

Ms. Pruitt presented the case noting the applicant is requesting a zoning change from General Retail District (GR) to a Planned Development District (PD) with a base zoning of General Retail District (GR) to allow for a tattoo shop. The applicant is not proposing to modify the zoning district regulations, but to simply allow the use since it is currently prohibited in the GR Zoning District.

Ms. Pruitt explained the applicant is the owner of Studio Iris, which is a tattoo shop focused on cosmetic and restorative tattooing. Cosmetic services may include beauty enhancements, such as tattooing eyebrows, lip liner, and other beauty marks. Restorative services are tattooing services that cover scars from an accident or a medical procedure. The operational plan discloses more

details on the services provided by this business. The applicant is proposing to operate the tattoo shop in Suite A (approximately 550 square feet) in the multi-tenant building at 120 N. Highway 77 and will have one employee, the applicant, and will generally operate Monday through Friday, 10 am to 6 pm, Saturday, 11 am to 5 pm, and closed on Sunday. Services will be performed by-appointment-only and will not be open for general walk-ins.

Ms. Pruitt explained, in light of the numerous zoning requests the City has received for tattoo shops, staff recommends denial for consistency with past recommendations. Currently, tattoo shops are permitted within the Commercial (C) District, and staff recommends the applicant choose another location where the zoning allows the use.

Ms. Pruitt explained based on the details provided in the Staff Report and the present status of the documents subject to the request, the Planning Department recommended denial of the zoning request. She stated the Planning and Zoning Commission recommended denial by a 4-1 vote and a supermajority vote from Council is required for approval.

Mayor Hill opened the Public Hearing.

Iris Showalter, 120 North Highway 77, Waxahachie, Texas, explained her studio would provide a spa like environment and clients are serviced by appointments only. She reviewed her business plan noting she specializes in subtle beauty enhancements as well as paramedical restorative or cosmetic tattoo work due to cancer, surgery, autoimmune, and other circumstances.

Council Member Smith expressed support for services provided for paramedical restorative tattoos and asked if Ms. Showalter had searched other locations within the Commercial Zoning District where the use is permitted. Ms. Pruitt reported there is 985 acres of land zoned Commercial where the use is permitted and that information has been provided to the applicant. Ms. Showalter explained she has not found a location with Commercial Zoning that would provide visibility for the public to see her business.

Mayor Pro Tem Chris Wright expressed his support for the restorative services, but the use is not permitted in the General Retail Zoning District. He explained City Council will discuss possible amendments to the zoning ordinance at the February 24, 2023 City Council Work Session.

Deputy City Manager Albert Lawrence asked if the applicant would need to restart the zoning change process if City Council elects to modify the requested Planned Development to allow for her proposed tattoo services. City Attorney Robert Brown explained the applicant would not have to resubmit her request and staff could include language in the current proposed Planned Development allowing for the use.

The City Council discussed postponing ZDC-177-2022 to a future meeting to allow further discussion of the uses in the zoning ordinance.

Council Members Patrick Souter and Billie Wallace also expressed their support for the restorative services noting they agree with reviewing the zoning ordinance text and uses.

Those who spoke in favor:

Ben Wilson, 120 N. Hwy. 77, Waxahachie, Texas

There being no others to speak for or against ZDC-177-2022, Mayor Hill closed the Public Hearing.

18. Consider proposed Ordinance approving ZDC-177-2022

Action:

Council Member Billie Wallace moved to continue ZDC-177-2022 to the April 3, 2023 City Council meeting. Council Member Travis Smith seconded, All Ayes.

19. Consider proposed Resolution adopting the 2022 Ellis County Multi-jurisdictional Hazard Mitigation Plan

Thomas Griffith, Emergency Management Coordinator, requested approval of a Resolution adopting the 2022 Ellis County Multi-Jurisdictional Hazard Mitigation Plan. He explained the plan is required to receive most federal grants and has to be updated every 5 years. In 2021, the City of Waxahachie along with 14 other cities, started working with Ellis County and the North Texas Council of Governments to complete the plan. The plan identifies the type, location and extent of hazards that effect each jurisdiction, and a mitigation strategy for those hazards. On February 9th we received notice from the County that FEMA had approved the plan pending local adoption. Each city must adopt the plan to receive final approval. This adoption does not constitute a financial obligation on any party of the plan.

RESOLUTION NO. 1337

A RESOLUTION OF THE CITY OF WAXAHACHIE ADOPTING THE 2022 ELLIS COUNTY MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN

Action:

Council Member Billie Wallace moved to approve the Resolution adopting the 2022 Ellis County Multi-jurisdictional Hazard Mitigation Plan as presented. Mayor Pro Tem Chris Wright seconded, All Ayes.

20. Consider decertifying a portion of the City's Water and Wastewater Certificate of Convenience and Necessity (CCN)

City Manager Michael Scott requested approval to authorize staff to proceed with the process of decertifying a portion of the City's current water and wastewater Certificate of Convenience and Necessity (CCN) as discussed at the January 25th City Council Work Session. He explained by reducing the footprint of the City's CCN, it enables existing and planned infrastructure facilities to be more adequately serve existing entitled developments. It also further reduces the unknown densities of projects that exist outside the city limits which are not regulated by City zoning regulations. Mr. Scott noted this particular area would decertify the area related to the south of Lake Waxahachie, including the Haven Ranch Development, which consists of approximately 1,100 acres.

Mayor Pro Tem Wright explained areas within the City's water and wastewater CCN are not in the city limits, but can file a request through the State, requiring the City to provide water and sewer services to their development.

RESOLUTION NO. 1338

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS, AUTHORIZING CITY STAFF TO SUBMIT AN APPLICATION TO THE TEXAS PUBLIC UTILITY COMMISSION TO AMEND A PORTION OF THE CITY'S CERTIFICATES OF CONVENIENCE AND NECESSITY FOR WATER AND WASTEWATER SERVICE FOR CERTAIN PROPERTY WITHIN THE CITY'S EXTRATERRITORIAL JURISDICTION

Action:

Council Member Billie Wallace moved to approve the Resolution and authorize the City Manager to initiate the required process with the Public Utility Commission to decertify the City's water and wastewater CCN for the tracts reference in Exhibit A. Council Member Travis Smith seconded, All Ayes.

21. Consider approval of a Service Contract with Andale Construction, Inc. for High Density Mineral Bond Seal, Pavement Preservation

James Gaertner, Executive Director of Public Works and Engineering, requested approval of a service contract to Andale Construction, Inc. for the application of high-density mineral bond seal for asphalt pavement preservation in the amount of \$141,432.80. He explained the application of this material will protect and extend the life of the pavement by providing a smooth coat to the pavement and protect the asphalt from water infiltration and UV deterioration. He noted there is a five-year warranty on the products used. The following streets are included in this project:

- Hilltop Dr., from Rogers to Hwy 77
- S. College, from Hwy 77 to Hilltop
- Five Points Rd., from Rogers to Hwy 35 service Rd.
- Opal St., from Rogers to Five Points
- Bauder St., from Rogers to Five Points
- Louis St., from Hwy 35 service Rd to Five Points
- Ruth St., from Louis to Opal
- Neal St., from Louis to Bauder
- West Ave., from Rogers to Dead End
- S. Edgefield, from Hilltop to Sunnyside
- Sunnyside Dr., from S. Edgefield to Five Points
- Meadowview Dr., from Sunnyside to Hilltop
- McKenzie St., from Williams St. to Brown St.

Action:

Council Member Billie Wallace moved to approve a service contract for the application of High-Density Mineral Bond Seal to Andale Construction, Inc. in the amount of \$141,432.80. Council Member Patrick Souter seconded, All Ayes.

22. Comments by Mayor, City Council, City Attorney and City Manager

Laurie Mosley, Director of the Convention and Visitors Bureau, introduced the new Cultural Arts and Programming Manager Danielle Guinn.

Council Member Travis Smith commended staff for their planning and execution of the Mardi Gras event. He noted he is looking forward to the Cinco de Mayo Festival on May 6, 2023.

Council Member Billie Wallace expressed her appreciation for all the work put in to the success of all events in Waxahachie. Ms. Wallace stated she was proud of Honorary Council Member Jacob Ervin.

Mayor Pro Tem Chris Wright thanked Mr. Ervin for his attendance. He explained Bessie Coleman's contributions were meaningful and there may be other opportunities to recognize her. Mr. Wright announced the Police Department will have a promotional ceremony on February 23rd and the memorial service for City employee Steve Brigman will be February 23rd from 5-8pm at the Civic Center.

Council Member Patrick Souter stated he attended emergency management training conducted by the State. He noted Thomas Griffith, Emergency Management Coordinator, and his team, were continuously mentioned for their extensive knowledge and recognized as great examples for other entities.

Jacob Ervin thanked City Council for allowing him to participate as an Honorary Council Member for February.

Mayor David Hill echoed City Council comments noting Mr. Griffith is an asset to the City of Waxahachie and recognized his institutional knowledge. Mayor Hill thanked those in attendance and mentioned the elimination of briefings prior to City Council meetings has provided more open discussion when considering agenda items.

23. Adjourn

There being no further business, the meeting adjourned at 8:31 p.m.

Respectfully submitted,

Amber Villarreal
City Secretary