

City Council
July 17, 2023

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, July 17, 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 Chip Sebring, Southlake Baptist Church, gave the invocation. Mayor Hill led the Pledge of Allegiance and the Texas Pledge of Allegiance.

4. Public Comments

Donny Richmond, 112 Santa Fe Trail, Waxahachie, Texas, expressed concern with increased panhandling in Waxahachie and asked for a plan to regulate.

Gabrielle Calvery, 301 Virginia Avenue, Waxahachie, Texas, spoke in support of short-term rentals.

Bernard Mushinski, 130 Oak Tree Drive, Waxahachie, Texas, spoke in opposition of short-term rentals in residential areas.

Michael McCorkle, 171 Willow Run, Waxahachie, Texas, requested City Council adopt an Ordinance regulating short-term rentals.

James Parks, 102 Post Oak Lane, Waxahachie, Texas, requested City Council adopt an Ordinance regulating short-term rentals.

Randy Kimberlin, 100 Post Oak Lane, Waxahachie, Texas, requested City Council adopt an Ordinance regulating short-term rentals and prohibit in single-family zoning districts.

Christina Wallace, 241 Oak Tree Drive, Waxahachie, Texas, requested City Council adopt an Ordinance regulating short-term rentals.

Alan Fox, 327 University, Waxahachie, Texas, requested the inclusion of bike lanes when repairing or constructing streets. He spoke in support of the Charles Beatty Municipal Services Building.

Craig Barrington (and Zack Barrington), 321 Ash Drive, Waxahachie, Texas, requested City Council adopt an Ordinance regulating short-term rentals and prohibit in single-family zoning districts.

Shannon Almon, 1015 W. Main, Waxahachie, Texas, spoke in support of short-term rentals and encouraged the City address properties that are causing repetitive disturbances.

Melissa McClain, 232 McKinley Circle, Waxahachie, Texas, spoke in support of short-term rentals and asked City Council to consider all perspectives before acting.

Robert Scruggs, 3273 Howard Road, Waxahachie, Texas, requested City Council adopt an Ordinance regulating short-term rentals and prohibit in single-family zoning districts.

Hayden Rieper, 107 Oaklawn, Waxahachie, Texas, spoke in support of short-term rentals and asked City Council to consider all perspectives before acting. He requested citing short-term rentals in violation of City Code.

Brad Yates, 626 Kaufman, Waxahachie, Texas, spoke in support of short-term rentals and asked City Council to consider all perspectives before acting. He encouraged the City to address properties not complying with City ordinances.

Dusty Autrey, 400 N. Rogers, Waxahachie, Texas, spoke in support of short-term rentals and asked City Council to consider all perspectives before acting.

James Bennet, 419 W. Franklin, Waxahachie, Texas, spoke in support of short-term rentals noting there needs to be rules and regulations.

5. Consent Agenda

- a. Minutes of the City Council meeting of June 19, 2023
- b. Minutes of the City Council Work Session of June 29, 2023
- c. Event application for Frozen Sing-a-Long Movie to be held July 22, 2023 at Railyard Park
- d. Event application for We Found Waldo Party to be held July 29, 2023 at Railyard Park
- e. Event application for Headphone Disco to be held August 5, 2023 at Railyard Park
- f. Event application for Back to School Bash to be held August 12, 2023 at Railyard Park
- g. Event application for 1st Annual Kickball Tournament to be held September 3, 2023 at Lee Penn Park
- h. Event application for Ellis County Preparedness Fair to be held September 9, 2023
- i. Event application for Hispanic Heritage Event to be held September 23, 2023 at Railyard Park

- j. Proposal from Blue Cross Blue Shield of Texas to provide employee medical, dental and vision insurance for fiscal year 2023-2024
- k. Resolution to deny a rate increase request by Oncor Electric Delivery Company, LLC
- l. Supplemental appropriation from the Waxahachie Community Development Corporation (WCDC) unrestricted reserves to fund a portable audio system at the Civic Center

RESOLUTION NO. 1345

A RESOLUTION OF THE CITY OF WAXAHACHIE, TEXAS FINDING THAT ONCOR ELECTRIC DELIVERY COMPANY LLC'S APPLICATION TO AMEND ITS DISTRIBUTION COST RECOVERY FACTOR AND UPDATE GENERATION RIDERS TO INCREASE DISTRIBUTION RATES WITHIN THE CITY SHOULD BE DENIED; AUTHORIZING PARTICIPATION WITH THE STEERING COMMITTEE OF CITIES SERVED BY ONCOR; AUTHORIZING HIRING OF LEGAL COUNSEL; FINDING THAT THE CITY'S REASONABLE RATE CASE EXPENSES SHALL BE REIMBURSED BY THE COMPANY; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND LEGAL COUNSEL.

Action:

Billie Wallace moved to approve items a. through l. on the Consent Agenda. Travis Smith seconded, All Ayes.

6. Introduce Honorary Council Member

Mayor Hill announced there was not an Honorary Council Member for July.

7. Recognition of the Public Works and Engineering Department for receiving the APWA Environmental Project of the Year (\$2 Million to \$5 Million) for the College Street Drainage Project

James Gaertner, Executive Director of Public Works and Engineering, recognized the Public Works and Engineering Department for receiving the APWA Environmental Project of the Year (\$2 Million to \$5 Million) for the College Street Drainage Project.

City Council congratulated the Public Works and Engineering Department.

8. Public Hearing on a request by Steve Meier, Turcotte Development, for a Specific Use Permit (SUP) for a Heavy Equipment Rental and Sales use within a Commercial (C) zoning district located at 2021 Corporate Parkway (Property ID 273978) - Owner: LEDBETTER REAL ESTATE, LTD (ZDC-24-2023)

Jennifer Pruitt, Senior Director of Planning, announced the applicant requested to continue the public hearing for ZDC-24-2023 to the August 7, 2023 City Council meeting.

9. Consider proposed Ordinance approving ZDC-24-2023

Action:

Billie Wallace moved to continue the Public Hearing on a request by Steve Meier, Turcotte Development, for a Specific Use Permit (SUP) for a Heavy Equipment Rental and Sales use within a Commercial (C) zoning district located at 2021 Corporate Parkway (Property ID 273978) to the August 7, 2023 City Council meeting. Travis Smith seconded, All Ayes.

10. Public Hearing on a request by Mahendra Kandepu, Lillian Custom Homes, for an Amendment to Ordinance No. 3105, to allow for a revised site plan and development standards within an approved Planned Development located at the intersection of Vermont Street and Parks School House Road (Property ID: 226116) – Owner: FALCON’S LANDING A SERIES OF EIS DEVELOPMENT II LLC (ZDC-153-2022)

Mayor Hill announced the Planning and Zoning Commission voted to continue ZDC-153-2022 from the July 11, 2023 Planning and Zoning Commission meeting indefinitely.

11. Consider proposed Ordinance approving ZDC-153-2022

Action:

Billie Wallace moved to deny amending Ordinance No. 3105, for ZDC-153-2022. Chris Wright seconded, All Ayes.

12. Public Hearing on a request by Jake Fears, JHF Engineering, for a Specific Use Permit (SUP) for a restaurant with a drive-through use within a General Retail (GR) and Light Industrial-1 (LI-1) zoning district located at 1995 North Highway 77 (Property ID 262424) - Owner: C&C WAXAHACHIE, LLC (ZDC-4-2023)

Ms. Pruitt presented the case noting the applicant is requesting a Specific Use Permit (SUP) for a restaurant with a drive-through use at 1995 North Highway 77. The restaurant is part of a multi-tenant retail building (10,354 square feet) with four suites: a sit-down restaurant, a drive-through restaurant, a nail salon, and a dental clinic. The applicant cannot disclose the businesses occupying each suite since the property owner has not finalized contracts with the prospective tenants; however, the proposed development has provided more than the minimum required parking spaces (59 required/66 provided) and drive-through stacking spaces (6 required/9 provided). Additionally, the site complies with the City’s development standards, such as providing refuse containers, adequate site access and circulation, adequate fire coverage, and minimum landscape requirements.

The applicant provided two sets of architectural elevations for staff and the Planning and Zoning Commission to evaluate. Both sets of elevations have the same building design and exterior finishing materials, except the color scheme for each set is different. The preferred option by the applicant and the P&Z Commission is Option 1: the building is mostly made of brick, with two different shades of brown (dark and light) with gray undertones. Additionally, natural stone materials are used in the lower portion of the building, and features a stucco parapet roof.

Based on the details provided in the Staff Report and the present status of the documents associated with the request, the Planning Department recommends approval of the SUP request with the following conditions:

1. The applicant execute a mutually agreed upon Development Agreement.
2. The applicant obtain the necessary building permits from the City of Waxahachie Building and Community Services Department.

Mayor Hill opened the Public Hearing.

Mayor Pro Tem Chris Wright expressed concern with approving an SUP for a drive-through without knowing the occupant.

Council Member Travis Smith confirmed the SUP for the drive-through will stay with the building, not the tenant, and Ms. Pruitt agreed. Mr. Smith inquired about a new curb cut to Highway 77 and if the traffic signal provided by Tom Thumb will be utilized. Ms. Pruitt confirmed there will not be a new curb cut and the new traffic signal will be utilized.

There being no others to speak for or against ZDC-4-2023, Mayor Hill closed the Public Hearing.

13. Consider proposed Ordinance approving ZDC-4-2023

ORDINANCE NO. 3380

AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO ALLOW A DRIVE THROUGH ESTABLISHMENT USE WITHIN A GENERAL RETAIL DISTRICT (GR) AND LIGHT INDUSTRIAL-1 DISTRICT (LI-1) LOCATED AT 1995 NORTH HIGHWAY 77 IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING 1.305 ACRES JBIWB AS ORIOERTT UD 262424, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.

Action:

Billie Wallace moved to approve the Ordinance for ZDC-04-2023, a Specific Use Permit (SUP) for a restaurant with a drive-through use, subject to the conditions of the staff report, authorizing the City Manager and/or Mayor to execute all documents accordingly. Travis Smith seconded, the vote was as follows: Ayes: David Hill, Billie Wallace, and Travis Smith. Noes: Chris Wright and Patrick Souter.

The motion carried.

14. Consider Development Agreement for ZDC-4-2023

Action:

Billie Wallace moved to approve a Development Agreement for ZDC-4-2023. Travis Smith seconded, the vote was as follows: Ayes: David Hill, Billie Wallace, and Travis Smith. Noes: Chris Wright and Patrick Souter.

The motion carried.

15. Public Hearing on a request by James Dixon, Dixon & Associates, for a Specific Use Permit (SUP) for an Accessory Building (Residential), Greater than or Equal to 700 Square Feet use within the Single-Family Dwelling-2 (SF2) zoning district located at 149 Country Drive (Property ID: 203065) - Owners: NICHOLAS AND MARIA SIERRA (ZDC-48-2023)

Ms. Pruitt presented the case noting the applicant is requesting a Specific Use Permit to construct an accessory structure greater than 700 square feet on the rear side of the single-family residential lot at 149 Country Drive. The single-family dwelling has an approximate size of 2,913 square feet and the proposed accessory structure has an area of 725 square feet. The accessory structure will have an exterior masonry construction to match the primary building. The owner plans to utilize the accessory structure for storing household items, tools, lawn equipment, and vehicles. The structure will be situated at the back of the property, towards the southern part of the lot. The applicant has confirmed to staff the structure will not be used as a dwelling and will not be metered, sold, or leased separately from the existing home. Staff has received three (3) letters of support. Based on the details provided in the Staff Report and the present status of the documents associated with the request, the Planning Department recommends approval of the SUP request with the following conditions:

1. The accessory structure shall not be used as a dwelling without a Specific Use Permit that has been approved by City Council.
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.
4. The accessory structure shall obtain a permit from the City of Waxahachie Building and Community Services Department before constructing the accessory structure.

Mayor Hill opened the Public Hearing.

There being no others to speak for or against ZDC-48-2023, Mayor Hill closed the Public Hearing.

16. Consider proposed Ordinance approving ZDC-48-2023

ORDINANCE NO. 3381

AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO ALLOW AN ACCESSORY STRUCTURE GREATER THAN 700 SQUARE FEET USE WITHIN A SINGLE-FAMILY DWELLING-2 (SF-2) ZONING DISTRICT AT 149 COUNTY DRIVE IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING 1.031 ACRES KNOWN AS PROPERTY ID 203065, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.

Action:

Billie Wallace moved to approve the Ordinance for ZDC-48-2023, a Specific Use Permit (SUP) for an Accessory Structure over 700 square feet within a Single-Family 2 (SF-2) zoning, subject to the conditions of the staff report and authorize the City Manager and/or Mayor to execute all documents accordingly. Travis Smith seconded, All Ayes.

17. Consider proposed Resolution relinquishing and adjusting any and all of the extraterritorial jurisdiction (ETJ) in accordance with the boundary adjustment agreement between the City of Waxahachie and the City of Red Oak dated June 19, 2023

City Manager Michael Scott requested approval of a Resolution relinquishing and adjusting the ETJ boundaries with the City of Red Oak per the boundary adjustment agreement approved by City Council on June 19, 2023. He explained the request was initiated by the City of Red Oak to allow for the cohesive development of an anticipated residential development that would span into both jurisdictions. This action would allow for that development to be reviewed, constructed, inspected and served by a single jurisdiction. City staff has reviewed this request and given the size and distance from City services, has no objection to relinquishing approximately 65 acres to the City of Red Oak. The relinquishment of this ETJ would have no significant impact in the foreseeable future to the City of Waxahachie's growth patterns or fiscal outlook.

RESOLUTION NO. 1346

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS, RELINQUISHING AND ADJUSTING ANY AND ALL OF THE EXTRATERRITORIAL JURISDICTION DESCRIBED HEREIN PURSUANT TO AND IN ACCORDANCE WITH THE BOUNDARY ADJUSTMENT AGREEMENT BETWEEN THE CITY OF WAXAHACHIE AND THE CITY OF RED OAK DATED JUNE 19TH, 2023; SUCH THAT THE CITY OF WAXAHACHIE'S EXTRATERRITORIAL JURISDICTION SHALL BE AND IS HEREBY ADJUSTED AND CONTRACTED TO RELINQUISH THE PROPERTY DESCRIBED AND DEPICTED IN EXHIBIT "A," ATTACHED HERETO AND INCORPORATED HEREIN; TO RELEASE SAID PROPERTY; AND, PROVIDING AN EFFECTIVE DATE.

Action:

Patrick Souter moved to approve the Resolution relinquishing and adjusting the ETJ boundaries with the City of Red Oak per the boundary adjustment agreement and authorize the City Manager and/or Mayor to execute all necessary documents. Chris Wright seconded, the vote was as follows: Ayes: David Hill, Chris Wright, Patrick Souter, and Billie Wallace. Noes: Travis Smith.

The motion carried.

18. Consider proposed Ordinance setting the school speed limit for Waxahachie High School along US 287 and BUS 287

Mr. Gaertner requested approval of the proposed Speed Zone Ordinance on Highway 287 frontage road and Business 287 on the roadway segments directly adjacent to the Waxahachie High School

site. TxDOT performed a traffic study and determined a Speed Zone of 35 MPH for school arrival and dismissal is warranted. TxDOT will install the School Zone flashing signage and pavement markings adjacent to Waxahachie High School after City Council approval of the Speed Zone Ordinance. TxDOT will pay for all materials and installation of the flashing signage and pavement markings.

Council Member Smith asked if additional signage, at the City's expense, can be added to improve safety in that area and Mr. Gaertner explained TxDOT is working with the school district to improve safety in that area, including the intersections at FM 875 and Sardis Road.

ORDINANCE NO. 3382

AN ORDINANCE ALTERING THE PRIMA FACIE SPEED LIMITS ESTABLISHED FOR VEHICLES UNDER THE PROVISIONS OF TRANSPORTATION CODE, SECTION 545.356 UPON STATE HIGHWAY NO. 287 OR PARTS THEREOF, WITHIN THE INCORPORATE LIMITS OF THE CITY OF WAXAHACHIE, AS SET OUT IN THIS ORDINANCE; AND PROVIDING A PENALTY OF A FINE NOT TO EXCEED \$200.00 FOR THE VIOLATION OF THIS ORDINANCE.

Action:

Billie Wallace moved to approve the Speed Zone Ordinance for Highway 287 and Business 287 School Zone and authorize the City Manager to execute all required documents. Travis Smith seconded, All Ayes.

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

Council Member Travis Smith thanked the citizens for their comments on short-term rentals and explained the City has been discussing the topic for over a year and was expecting direction from State legislatures this session; however, the State did not act.

Council Member Billie Wallace congratulated the Public Works and Engineering Department on their award. She echoed comments from Council Member Smith.

City Manager Michael Scott announced John Knight submitted his resignation from the Ellis Appraisal District Board of Directors (BOD). Per the Texas Property Tax Code, each taxing unit that is entitled to vote, may nominate by resolution, adopted by its governing body, a candidate to fill the vacancy. The unit shall submit the name of its nominee to the chief appraiser within 45 days after notification from the board of directors of the existence of the vacancy. Nominations must be submitted by Monday, August 28, 2023. Mr. Scott also announced the final budget work session will be held August 1, 2023 at 5:30 p.m.

Mayor Pro Tem Chris Wright thanked Police Chief Joe Wiser and Fire Chief Ricky Boyd for their assistance in escorting the cast from Waxahachie High to the Texas Theater for their movie premiere. Mr. Wright announced the grand opening for the Charles Beatty Municipal Services Building will be held July 27th at 10 a.m. He thanked Michael McCorkle for communicating complaints with City Council regarding short-term rentals. He encouraged citizens to report issues to the Police Department regarding short-term rentals.

Council Member Patrick Souter explained the State did not act on legislation this session regarding short-term rentals leaving municipalities without legal guidance on what the Supreme Court will uphold. Mr. Souter expressed disapproval of inaccurate information being relayed to the public noting it has caused confusion to citizens.

19. Convene into Executive Session for consultation with City Attorney regarding pending or contemplated litigation as permitted under Section 551.071, Texas Government Code and for consultation with City Attorney on legal issues regarding short-term rentals as permitted under Section 551.071, Texas Government Code

Mayor Hill announced at 8:38 p.m. the City Council would convene into Executive Session for consultation with City Attorney regarding pending or contemplated litigation as permitted under Section 551.071, Texas Government Code and for consultation with City Attorney on legal issues regarding short-term rentals as permitted under Section 551.071, Texas Government Code.

20. Reconvene and take any necessary action

The meeting reconvened at 9:31 p.m.

ORDINANCE NO. 3383

AN ORDINANCE OF THE CITY OF WAXAHACHIE, TEXAS, PROVIDING AN INTERIM BAN ON NEW SHORT-TERM RENTALS, AND ON CURRENT SHORT-TERM RENTALS THAT HAVE BEEN DETERMINED TO BE A NUISANCE; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Action:

Billie Wallace moved to approve a temporary moratorium Ordinance on new short-term rentals with the modifications discussed in Executive Session. Patrick Souter seconded, All Ayes.

22. Adjourn

There being no further business, the meeting adjourned at 9:32 p.m.

Respectfully submitted,

Amber Villarreal
City Secretary