

City Council
June 6, 2022

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, June 6, 2022 at 7:00 p.m.

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

Others Present: Michael Scott, City Manager
Albert Lawrence, Deputy City Manager
Richard Abernethy, Director of Administrative Services
Robert Brown, City Attorney
Amber Villarreal, City Secretary

1. Call to Order

Mayor Doug Barnes called the meeting to order.

2. Invocation

3. Pledge of Allegiance and Texas Pledge of Allegiance

Pastor James Worley, Lighthouse Baptist Church gave the invocation. Council Member Chris Wright led the Pledge of Allegiance and the Texas Pledge of Allegiance.

4. Public Comments

Brandy Mayo, 414 W. Marvin Avenue, Waxahachie, thanked City Council and the Planning and Zoning Commission for their time and service to the City of Waxahachie. Ms. Mayo spoke in opposition to ZDC-42-2022.

Justin Christ, 10003 Technology Boulevard West, Dallas, requested City Council's support of providing sanitary sewer service to his development located off of FM 879 in Waxahachie ETJ (extraterritorial jurisdiction).

Mr. Jeff Evans, 121 McClain, Waxahachie, and Ms. Cynthia Keeton, 411 Smokey Lane, Waxahachie, requested an update on their requested street improvements, pole light outage, high grass in the right-of-way, and vacant houses on their street.

5. Consent Agenda

- a. Minutes of the City Council meeting of May 16, 2022
- b. Minutes of the City Council briefing of May 16, 2022
- c. Minutes of the City Council special meeting of May 24, 2022
- d. Event application for Juneteenth Musical, Parade, & Celebration on June 17-18, 2022
- e. Accept the FY 2021-2022 Impact Fee Revenue and Expenditure Mid-Year Report
- f. Authorize supplemental appropriation funding the runoff election on June 18, 2022 in the amount of \$13,910

- g. Resolution to suspend the effective date of a rate increase request by Oncor
- h. Set City Council meeting for Tuesday, July 5, 2022

RESOLUTION NO. 1325

RESOLUTION OF THE CITY OF WAXAHACHIE SUSPENDING THE JUNE 17, 2022 EFFECTIVE DATE OF ONCOR ELECTRIC DELIVERY COMPANY'S REQUESTED RATE CHANGE TO PERMIT THE CITY TIME TO STUDY THE REQUEST AND TO ESTABLISH REASONABLE RATES; APPROVING COOPERATION WITH THE STEERING COMMITTEE OF CITIES SERVED BY ONCOR TO HIRE LEGAL AND CONSULTING SERVICES AND TO NEGOTIATE WITH THE COMPANY AND DIRECT ANY NECESSARY LITIGATION AND APPEALS; 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 FOR THE STEERING COMMITTEE

Action:

Mayor Pro Tem Billie Wallace moved to approve items a. through h. on the Consent Agenda. Council Member David Hill seconded, All Ayes.

6. Present Proclamation proclaiming June 19, 2022 as Juneteenth Day

Mayor Barnes presented a Proclamation proclaiming June 19, 2022 as Juneteenth Day.

7. Present Proclamation proclaiming June 4, 2022-July 4, 2022 as Crape Myrtle Month

Mayor Barnes presented a Proclamation proclaiming June 4, 2022-July 4, 2022 as Crape Myrtle Month.

8. Public Hearing on a request by Chad Adams, Oak Hull Investments, for a Replat of Lots 8, 9, & 10, Block 11, University Annex Addition, to create Lots 8A-10B, Block 11, University Annex Addition, 6 Residential Lots, being 1.129 acres, located at 107 Olive St and 510 Cynisca St., (Property ID 176473 & 176474) – Owner: STONEDALE DEVELOPMENT LLC (SUB-28-2022)

Mayor Barnes opened the Public Hearing and announced the applicant requested to continue the Public Hearing to the July 5, 2022 City Council meeting.

9. Consider approval of SUB-28-2022

Action:

Mayor Pro Tem Billie Wallace moved to continue the Public Hearing on a request by Chad Adams, Oak Hull Investments, for a Replat of Lots 8, 9, & 10, Block 11, University Annex Addition, to create Lots 8A-10B, Block 11, University Annex Addition, 6 Residential Lots, being 1.129 acres, located at 107 Olive St and 510 Cynisca St., (Property ID 176473 & 176474) – Owner: STONEDALE DEVELOPMENT LLC (SUB-28-2022) to the July 5, 2022 City Council meeting. Council Member Chris Wright seconded, All Ayes.

- 10. Public Hearing on a request by Chris Reeves, Quickway Signs, for a Specific Use Permit (SUP) for an Electronic Message Sign use within a Planned Development – Commercial (PD-C) zoning district located at 2374 W US Hwy 287 BYP (Property ID 219310) - Owner: COWBOY BAPTIST CHURCH OF MIDLOTHIAN (ZDC-45-2022)**

Mayor Barnes opened the Public Hearing and announced the applicant requested to continue the Public Hearing to the June 20, 2022 City Council meeting.

- 11. Consider proposed Ordinance approving ZDC-45-2022**

Action:

Mayor Pro Tem Billie Wallace moved to continue the Public Hearing on a request by Chris Reeves, Quickway Signs, for a Specific Use Permit (SUP) for an Electronic Message Sign use within a Planned Development – Commercial (PD-C) zoning district located at 2374 W US Hwy 287 BYP (Property ID 219310) - Owner: COWBOY BAPTIST CHURCH OF MIDLOTHIAN (ZDC-45-2022) to the June 20, 2022 City Council meeting. Council Member Chris Wright seconded, All Ayes.

- 12. Public Hearing on a request by Chris Reeves, Quickway Signs, for a Specific Use Permit (SUP) for an Electronic Message Sign use within a Single Family -2 (SF-2) zoning district located at 505 W Marvin Avenue (Property ID 219714) - Owner: FIRST UNITED METHODIST (ZDC-42-2022)**

Jennifer Pruitt, Senior Director of Planning, presented the case noting the applicant is requesting to relocate an existing ground monument sign 50 ft. south of the existing location. The applicant is requesting to add a 16 square foot (2ft. x 8ft.) electronic message sign to the design of the new sign at First United Methodist Church (505 W. Marvin Ave.). Ms. Pruitt noted the applicant is meeting all requirements and staff recommends turning off the sign's lighting between 8pm-8am. Due to the location being located in an area with multiple historic structures, staff has concerns that approving the proposed electronic message sign could affect the character of the area. In addition, staff has reviewed 13 letters of opposition from within the 200-foot notification area and 2 letters of support. Due to staff concerns, staff recommended denial. Ms. Pruitt noted 41% of the property owners within 200-feet of the proposed Specific Use Permit have submitted letters of opposition.

Ms. Pruitt explained per Section 2.04 (h)(v)(1) of the Waxahachie Zoning Ordinance, a favorable vote of three-fourths (3/4) of all members, which equates to four (4) of the five (5) members, of the City Council shall be required to approve any change in zoning when written objections of twenty (20%) percent or more property owners within two hundred (200) feet of the proposed change are submitted to the City Secretary in accordance with the provision of Section 211.006 of the Local Government Code of the State of Texas.

Mayor Barnes opened the Public Hearing.

Greg Nehib, 1025 W. Main, Waxahachie, Texas, spoke on behalf of the First United Methodist Church as a trustee, and clarified that the church did not agree to the 8pm dimming of the sign and requested to follow the 10pm time per the current City ordinance. He asked that Council Members Chris Wright and David Hill abstain from the vote as they live on Marvin Avenue and their spouses have submitted letters of opposition.

City Attorney Robert Brown explained that State law requires a super majority vote (4 of 5 Council Members) when there is more than 20% opposition from property owners located in the required notification area of a zoning change. Mr. Brown also explained that the Attorney General issued a ruling noting Council Members who live in an area or are in the notification area of a zoning change, do not have to abstain unless their economic impact is greater than any other property owner in the area. He also explained Council Members can abstain from voting at their pleasure but that does not lower the requirement of having 4 of 5 seated Council Members affirmative vote to approve.

Council Member Wright explained if he and Council Member Hill abstain from the vote as requested by Mr. Nehib, the motion will fail automatically as there will not be 4 favorable votes.

Those who spoke in opposition:

Maria Ortega, 603 W. Marvin, Waxahachie, Texas
Elizabeth Getzendaner Cunliffe, 415 W. Marvin, Waxahachie, Texas
David Walker, 909 W. Marvin, Waxahachie, Texas
Donnie Lord, 502 W. Marvin, Waxahachie, Texas
Jacqueline Montesano, 412 W. Marvin, Waxahachie, Texas

Those who spoke in favor:

Patrick Wilson, 310 Harbin Avenue, Waxahachie
Mike Tull, 136 Mustang Creek Drive, Waxahachie
Judy Demoney, 406 Jasmine lane, Waxahachie

There being no others to speak for or against ZDC-42-2022, Mayor Barnes closed the Public Hearing.

Mayor Pro Tem Billie Wallace stated the proposed sign meets all City Sign Ordinance standards and was recommended for approval from the Planning and Zoning Commission by a 4-1 vote on May 24, 2022. She reviewed the neighborhoods reasons for opposition and noted they are personal and there has been no explanation of why those in opposition want to restrict the free speech and free exercise of a church and does not believe City Council should obstruct the ability of a church to go about their business. She stated she believes if City Council does not approve the sign request it will be a violation of the First United Methodist's Church constitutional right to free exercise of religion and free speech. Mayor Pro Tem Wallace stated she will always defend the First Amendment right of churches in this City and will vote to approve this sign and anyone who stands against it, stands against the First Amendment of the United States Constitution.

Council Member Travis Smith requested City Council consider the precedence that has been set by allowing other electronic message signs in historic areas.

Council Member Wright stated he does not financially gain or lose anything because he resides on Marvin Avenue and noted he does not support an LED electronic message sign in a residentially zoned neighborhood. Mr. Wright asked the City Attorney if he should abstain and Mr. Brown explained it is his opinion that Council Members Wright and Hill do not have to abstain.

13. Consider proposed Ordinance approving ZDC-42-2022

Action:

Mayor Pro Tem Billie Wallace moved to approve an Ordinance approving ZDC-42-2022 with restricting the illumination of the sign between 8pm-8am.

Council Member Travis Smith moved to amend the motion to remove the restriction and allow the illumination hours to comply with the current City standards. Mayor Pro Tem Wallace accepted the amendment to the motion. Council Member Travis Smith seconded, the vote was as follows: Ayes: Doug Barnes, Billie Wallace, and Travis Smith. Noes: David Hill and Chris Wright.

The motion failed due to lack of super majority.

14. Continue Public Hearing on a request by Dean Settlemyer, Just Settle Investments, LLC for a Replat of a portion of Lot 8, Block 13, West End Addition, to create Lot 8R, Block 13, West End Addition, 1 Commercial lots, being 4.277 acres, located at the corner of Stroud Street and Hwy 287, (Property ID 176678) – Owner: JUST SETTLE INVESTMENTS, LLC (SUB-35-2022)

Ms. Pruitt presented the case noting the applicant is requesting approval to replat the subject property into one (1) lot for commercial use. The applicant is required to provide a 15' Utility, Water and Wastewater Easement and meet a 25' building line requirement along the eastern property line. The applicant is requesting a petition of relief waiver to allow for a reduced utility easement of 5' for a distance of 110 feet along the eastern property line with the standard 15' utility easement for the remainder of the eastern property line. She noted staff supports the request and recommends approval as presented.

Mayor Barnes continued the Public Hearing.

Dean Settlemyer, 605 Brookside Road, Waxahachie, noted staff comments have been met and staff recommends approval.

There being no others to speak for or against SUB-35-2022, Mayor Barnes closed the Public Hearing.

15. Consider approval of SUB-35-2022

Action:

Mayor Pro Tem Billie Wallace moved to approve a request by Dean Settlemyer, Just Settle Investments, LLC for a Replat of a portion of Lot 8, Block 13, West End Addition, to create Lot 8R, Block 13, West End Addition, 1 Commercial lots, being 4.277 acres, located at the corner of Stroud Street and Hwy 287, (Property ID 176678) – Owner: JUST SETTLE INVESTMENTS, LLC (SUB-35-2022). Council Member Chris Wright seconded, All Ayes.

16. Consider and take action on a resolution directing publication of notice of intention to issue Certificates of Obligation, Series 2022; directing the preparation of a preliminary official statement and related materials; and providing an effective date

City Manager Michael Scott presented the proposed Resolution directing publication of notice of intention to issue Certificates of Obligation for the following projects:

Streets:

- Construction of University Avenue, Wilmington Avenue, and Chiles Street
- Engineering of Perry Street and Charlotte Avenue
- Construction of Park Improvements/Boat Dock Park
- Purchase of Fire Truck 1

Water:

- Construction of Perry Street, East Ross Street, and Water Street Water Line Rehab
- Engineering/Construction of Oldham Avenue, West Main St. Old Water Well Plugging, IH 35 Water Main from Lofland Road to Butcher Road, and South Prong Dam and Spillway Improvements
- Engineering of 715 and 719 Water Service Area Boundary Relocation Phase 2 and Howard Road Water Treatment Plan Filer 6 and Raw Meter

Sewer:

- Construction of Lower Mustang Creek Lift Station Expansion Phase 4 and South Rogers Street, alley sewers, and Bauder Street
- Engineering of Perry Street and alley sewers

Council Member Wright expressed his support for using Certificates of Obligation to fund needed services and infrastructure. He noted he supports park projects but does not support using bond funds to pay for them.

RESOLUTION NO. 1326

RESOLUTION BY THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS, DIRECTING PUBLICATION OF NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION; DIRECTING THE PREPARATION OF A PRELIMINARY OFFICIAL STATEMENT AND RELATED MATERIALS; AND PROVIDING AN EFFECTIVE DATE

Action:

Mayor Pro Tem Billie Wallace moved to approve Resolution No. 1326. Council Member Travis Smith seconded, All Ayes.

17. Consider supplemental appropriation of \$15,222 to fund Cemetery gravestone repairs

Brad Barnes, Assistant Director of Parks and Recreation, requested approval of a supplemental appropriation of \$15,222 to fund Cemetery gravestone repairs caused by vandalism on February 28th. He explained the total quoted cost for repairs was \$49,936.24 and the City received \$34,715 in donations from companies, organizations, and individuals. He noted most repairs to this point have been completed by volunteers and companies donating their time, materials, and energy. Mr. Barnes requested a supplemental appropriation to pay the outstanding balance to have the remaining 97 gravestones repaired.

Action:

Council Member Travis Smith moved to approve a supplemental appropriation of \$15,222 to fund Cemetery gravestone repairs. Mayor Pro Tem Billie Wallace seconded, All Ayes.

18. Consider supplemental appropriation of \$29,900 to fund increase for Wastewater Administration Professional Services

Brandon Lacy, Assistant Director of Utilities, requested a supplemental appropriation in the amount of \$29,000 to increase the expenditure budget for professional services in the Wastewater Administration Department to allow several projects to reach completion and provide extra resources for unforeseen engineering service related expenses for the remaining budget year.

Action:

Mayor Pro Tem Billie Wallace moved to approve a supplemental appropriation of \$29,000 to fund increase for Wastewater Administration Professional Services. Mayor Doug Barnes seconded, All Ayes.

19. Consider authorizing a professional services agreement for engineering services for the design of the Perry Avenue Water & Sewer Improvements

Johnny Partain, Utilities Engineer, requested approval to authorize a professional services agreement for engineering services for the design of the Perry Avenue water and sewer improvements with Teague Nall & Perkins Inc. Mr. Partain explained the proposal includes survey, design, bidding, and construction administration services for the project which will provide new infrastructure that will update and improve water and wastewater on Perry Avenue.

Action:

Mayor Pro Tem Billie Wallace moved to approve authorizing a professional services agreement for engineering services for the design of Perry Avenue water and sewer improvements with Teague Nall & Perkins Inc. in the amount of \$336,160. Council Member Chris Wright seconded, All Ayes.

20. Consider authorizing a professional services agreement for engineering services for the design of the IH35E 18-inch water transmission main Lofland Road to Butcher Road

David Bailey, Utilities Director, requested approval to authorize a professional services agreement with Birkhoff, Hendricks & Carter L.L.P. for engineering services for the design of the IH35E (east right-of-way) 18" water transmission main Lofland Road to Butcher Road. Mr. Bailey explained the proposal includes survey, design, bidding, land rights acquisition and construction administration services for this project which will add additional infrastructure to assist in the transitioning of water out of the Sokoll Water Plant to the northern areas of Waxahachie.

Action:

Mayor Pro Tem Billie Wallace moved to authorize a professional services agreement with Birkhoff, Hendricks & Carter L.L.P. for engineering services for the design of the IH35E 18" water transmission main Lofland Road to Butcher Road in the amount of 352,913. Council Member Travis Smith seconded, All Ayes

21. Consider bid award for additions to Water Distribution System-Marshall Road/Lofland Road 24" transmission main

Mr. Bailey requested approval of a bid award to Circle H Contractors in the amount of \$3,253,674.69 for construction of approximately 9,600 linear feet of proposed 24" reinforced concrete cylinder pipe water transmission line along Marshall Road/Lofland Road. He explained the proposed 24" water main will help transport water from the Robert W. Sokoll Water Treatment Plant utilizing our existing capacity and deliver water to the northern section of the city.

Action:

Mayor Pro Tem Billie Wallace moved to approve a bid award for additions to Water Distribution System-Marshall Road/Lofland Road 24" transmission main to Circle H Contractors in the amount of \$3,253,674.69 with a \$325,370 contingency funding. Council Member Chris Wright seconded, All Ayes.

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

City Secretary Amber Villarreal announced early voting has started and Election day for Place 2 runoff will be June 18, 2022.

City Manager Michael Scott thanked City Council for their support on the agenda items presented. Mr. Scott congratulated City Secretary Amber Villarreal on being selected as Yellow Rose Chapter Municipal Clerk of the Year. Mr. Scott also congratulated Senior Plans Examiner Jason Watson on receiving his Master Code Professional certification. Mr. Scott noted the certification is the highest level of designation the Code Council offers and only a little over 800 people have received that designation.

Council Member Chris Wright thanked Planning Director Jennifer Pruitt and Planner Zack King for their work on ZDC-42-2022. He explained his vote was not based on an electronic message sign requested by a church but an electronic message sign requested in a residential neighborhood.

Council Member Travis Smith congratulated Ms. Villarreal on receiving Yellow Rose Chapter Municipal Clerk of the Year. Mr. Smith thanked the numerous volunteers who give back to the community and those who assisted with Gingerbread Trail and the Railyard Park Concert Series.

Senior Director of Planning Jennifer Pruitt reminded City Council about the Comprehensive Plan Advisory Committee meeting on Tuesday, June 21, 2022 at 6:30 p.m.

Mayor Barnes reported the pancake breakfast fly-in at Mid-Way Regional Airport was successful and noted the airport is an asset to our community.

23. Adjourn

There being no further business, the meeting adjourned at 8:56 p.m.

Respectfully submitted,

Amber Villarreal
City Secretary